Dav. Torrent, ed.

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COLLECTIONS AND OBSERVATIONS Methodiz'd;

Concerning the WORSHIP, DISCIPLINE, *and* GOVERNMENT *of the* CHURCH *of*

SCOTLAND.

In Four BOOKS.

Contra Rationem, nemo Sobrius; Contra Scripturam, nemo Chriſtianus; Contra Eccleſiam, nemo Pacificus ſenſerit.

By Walter Stewart

EDINBURGH,

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MVSEVM BRITANNICVM

To the Honourable,

Sir JOHN MAXWELL

OF

NETHER-POLLOCK,

Knight Baronet;

One of the *Senators* of the *College* of *Juſtice.*

My Lord,

IT was Matter of Regrate, eſpecially about the Beginning of our Happy Revolution in the Year One Thouſand Six Hundred and Eighty Nine, that the Judicatories of this Church, very much wanted fix'd and eſtabliſh'd Rules, for directing their Proceedings; Or, tho' they had them, yet they lay ſo ſcattered and hid, that Intrants to the Holy Miniſtry, and the Younger Paſtors, yea even ſome among the more Aged of that Sacred Order, were too much Strangers to them. The Conſide-

ration whereof, did chiefly move me to ſet about this Work: And if my Endeavours herein, may but a little contribute to the Benefit or Service of the Office-Bearers and Guides of this Church, it is a Reward greater than I deſerve. However, to teſtifie the Honour and Reſpect I have for your Lordſhip, I Dedicate them to You, one of Her Honourable Ruling Elders. It gives no ſmall Satisfaction to all Honeſt Men who know You, that Ye ſtill Enjoy the Ancient Heretage of Your Honourable Family, in Deſpite of all the Illegal Attempts made againſt both Your Excellent Father and Your Self, under the two Reigns before the Year One Thouſand Six Hundred and Eighty Nine. But above all, it is Ground of Praiſe to GOD, That You Walk in the Steps of ſuch a Father, and thoſe of Your Pious Mother. That You may all the Days of Your Life go on, and Serve Your Generation according to the Will of GOD, and in the End be Gathered to Your Godly Progenitors in His Eternal Glory, is the Hope and Wiſh of

My LORD,

Your Lordſhips very

Humble Servant,

WALTER STEUART.

The Preface.

I *Have already, in my* Dedication, *hinted at the* Deſign *and* Uſefulneſs *of theſe* Collections, *unto the* Office-Bearers *in this* Church; *And if there be yet among them any want of* Uniformity *or* Exactneſs *in the* Exerciſe *of the* Diſcipline, Worſhip *and* Government *thereof, it may not without* Ground *be imputed to our not Training up the Students of Theologie* ex profeſſo *at* Univerſities, *in the* Knowledge *of theſe as well as in* Her Doctrine. *Therefore, to prevent all* Grounds *for fearing of ſuch* Ignorance, *and the bad* Effects *thereof; it were fit, that* Profeſſors *of* Divinity *were injoined to give their* Scholars Leſſons *on theſe* Subjects: *And till a better* Compend *be compoſed, theſe* Collections *are humbly offered, to be recommended by* Profeſſors *to their* Students: *For, except this* Subject *be ſtudied and underſtood by* Miniſters *and* Elders, *their* Memories *may well be burdened with their* Duty, *but their* Judgments, *till then, ſhall ſtill remain ignorant and unſatisfied about it.*

Now, as for thoſe of our Neighbour Churches *in this and the other* Iſland, *who now differ from us, I hereby preſent them with that* Form *of the* Houſe of GOD in *SCOTLAND, with which their* Pious, Wiſe *and* Learned Predeceſſors *did once ſo Paſſionately deſire* Uniformity. *So that when ever it ſhall pleaſe our* Great and Good GOD *to animate their* Succeſſors *with the*

the like Spirit, *they may fall about* Building *conform to this* Pattern. *Not that I propose this* Work *as the* Deed *of the* Church *of* SCOTLAND, *or of any* Judicatory *therein*; *only in so far as what is* Collected *or* Observed *in it, shall be found* Supported *by their* Acts *or* Universal Customs.

The Materials *of these* Collections, *and in* Particular, *of what is said on that* Title *concerning* Parochial Visitations *by* Presbyteries *were chiefly gathered from, and lay scattered among the* Old *and* Late Manuscript *and* Printed Acts *of* General Assemblies, *the* Overtures *concerning* Discipline, *Transmitted by them to* Presbyteries, *the* Directory *for* Worship *and* Church-Government; *And the* Constitutions *of some other* Churches *have been* Helpful *to the* Compleating *of the* Composure. *Beside, I thought it not* Improper *to* Add, *here and there, some* Hints *of* Civil Laws, *which I hope the* Reader *will not find* Unuseful *or* Impertinent, *seing there are some* Circumstances *concerning the* Worship of GOD, *and the* Government of His Church *common to* Humane Actions *and* Societies, *which are to be* Ordered *by the* Light of Nature *and* Christian Prudence, *according to the* General Rules *of the* Word.

I have divided these Collections *into four* Books. *The* First *Treats of* Church Government, *which principally concerns* Her Office-Bearers *and* Judicatories. *The* Second *is concerning the* Worship of GOD and Sacred Things, *with what* Relates *to the* Maintenance *thereof. The* Third *and* Fourth Books *Treat of* Church-Discipline; *The* One *concerning* Errors *and* Scandals: *And the* Other *about the* Method *of* Reclaiming *and* Censuring *the* Erroneous *and* Scandalous.

ERRATA.

PAge 10: Line 16: for *Miniſters Call*, read *Miniſter Calls*. Page 30: Line 30: for *Applications*, read *Amplifications*. Page 33. Line 12. read *by Promiſe and Supplication*. *Ibid.* Line 17. for § 19. *Tit.* 25. read § 11. *Tit.* 8. Page 35. Line 10. for *is*, read *are*. *P.* 45. *L.* 3. for *where*, read *whence*. *P.* 58. *L.* 21. for *to Repreſent*, read *to be Repreſented*. *Page* 78. *L.* 18. dele *he is*. *Ibid. L.* 19. for *to be Rebuked*, read *he is to be Rebuked*. *P.* 85. *L.* 7. for *thir*, read *their*. *P.* 87. *L.* 10. for *perpetuat*, read *perpetual*. *P.* 127. *L.* 14. for *when*, read *then*. *P.* 139. *L.* 19. for 1545. read 1645. *P.* 146. *L.* 2. *for* mutus perducet, *read* mutuus perduret. *P.* 158. L. 28. for *Cenſure*, read *Conferre*. *P.* 160. *L.* 16. for *Orderly*, read *Diſorderly*. *P.* 183. *L.* 3. for *Rolls*, read *Bolls*. *P.* 203. *L.* 1. read *to Intromett*. *P.* 249. *L.* 21. for *their*, read *other*. *P.* 254. *L.* 10. read *Vagabonds*. *By* Car. 2. *P.* 255. *L.* 21. for *were*, read *was*. *P.* 260. *L.* 23. dele *as*. *P.* 262. *L.* 30. read *Relapſe*. *P.* 271. *L.* 3. for *eaſier*, read *ſafer*. *P.* 299. *L.* 5. for *he heard*, read *be heard*.

COLLECTIONS AND OBSERVATIONS Methodized, &c.

BOOK First.

TITLE I.

Of the Election and Ordination of Paſtors.

§ 1. OUR Lord Jeſus Chriſt hath inſtituted a Government and Governours Eccleſiaſtical in His Houſe, with Power to meet for the Order and Government thereof: And to that Purpoſe the Apoſtles did immediately receive the Keys from the Hands of their Lord and Maſter Jeſus Chriſt, who hath, from time to time, furniſhed ſome in His Church, with Gifts for Government, and with Commiſſion to exerciſe it when called thereunto. And it is alſo agreeable to, and warranted by the Word of God, that ſome others, beſides thoſe who labour in the Word and Doctrine, be Church-Governours to joyn with the Miniſters of the Word, in the Government of the Church, and Exerciſe of Diſcipline: Which Office-Bearers, Reformed Churches do commonly

The Intrinſical Power of the Church, the Divine Warrant and Power of Her Judicatories, Paſtors, and Elders Aſſerted.

call *Ruling Elders*. It is likewiſe agreeable to the ſame Word, that the Church be governed by ſeveral ſorts of Judicatories, ſuch as, Kirk Seſſions, Presbyteries, Provincial and General Aſſemblies; All which have Power, one in Subordination to the other, to call before them any perſons within their own Bounds, whom the Eccleſiaſtical Buſineſs, which is before them, doth concern, either as Party or Witneſs, *vide Cap* 1. *Act* 11. *Aſſem.* 1707. The Church of *Scotland*, by this Article, denys the Independency of Presbyteries and Provincial Synods, as much as they do the Independency of a ſingle Congregation. But till the Churches become all of one Mind in the Lord, and Civil Rulers become Her Nurſing-Fathers, in their ſeveral Independent Kingdoms and Governments; It would ſeem, till theſe good Days come, the Churches are to manage their own Affairs Independently upon each other: Not that this Independency proceeds either from Scripture or the Nature of the Church, but from Reſtraint and Miſunderſtandings. *See the laſt Title of this Book.*

The various Names given to Paſtors, and why? Titles of Dignity in the Church ſavour of Popery.

§ 2. Paſtors, Biſhops, and Miniſters, are they who are appointed to particular Congregations: In reſpect whereof, ſometimes they are called *Paſtors*, becauſe they feed their Congregations; Sometimes *Biſhops*, becauſe they watch over their Flocks; Sometimes *Miniſters*, becauſe of their Service; Sometimes alſo *Presbyters* or *Seniors*, for the Gravity of Manners which they ought, and are ſuppoſed to have. *vide Polity of the Kirk*, *Cap.* 4. By the Act of Aſſembly *Decemb.* 17, 18. 1638. *Art.* 19. Seing the Office of Dioceſan or Lordly Biſhop is removed and abjured by this Kirk, it's thought fit that all Titles of Dignity, ſavouring more of Popery than of Chriſtian Liberty, as Chapters with their Elections and Conſecrations, Abbots, Priors, Deans, Arch-Deacons, Preaching-Deacons, Chanters, Sub-Chanters, and others, having the like Title, be no more uſed hereafter, under pain of Church Cenſure.

§ 3. When

§3. When the Presbytery are well informed that a Parish, for the most part, is Unanimous to elect a fit person to be their Pastor: Then they are to appoint One of their Number to preach on a Lord's-Day in the vacant Congregation, and, after Fore-noons Sermon, to intimate, that Elders, Heretors, Magistrates, and Town-Council (when that Vacancy happens in a Burgh-Royal) and Heads of Families do meet at the Church on such a Week-Day, (being always ten free Days after the Intimation) in order to the electing of a fit person to supply their Vacancy. Which Order seemeth most agreeable to that Apostolical Practice, *Acts* 6. 3. *Wherefore, Brethren, look ye out among you, seven Men of honest report, full of the Holy Ghost, and Wisdom, whom we may appoint over this business.* And the Presbytery, for Ordinary, waits till the Electors apply to them for that Intimation; Which Application will stop and interrupt the *Jus Devolutum*, (of which hereafter) although it be made by a few Electors, because their Meeting to apply hath no Conveener.

Intimation for the Electors to meet, is made by the Presbytery, but ordinarily upon their Application. A few applying stops the Jus Devolutum.

§ 4. By the Act of Assembly *August* 4. 1649. The Church-Session is to meet and proceed to the Election, and it doth most properly belong to them as the Representatives of that Congregation, to look out for a fit person to be their Pastor. But seing the Heretors (especially such as reside in the Parish) and Magistrates, with their Town-Council, in Burghs, are the most lasting as well as the most considerable Heads of Families, on whose Satisfaction and Assistance, the comfortable Living of Ministers may much depend, the 33 *Act*, *Sess.* 2. of K. *William* and Q. *Marie*'s Parliament hath joyned them (being Protestants) with the Elders in subscribing of Calls to Ministers. It is to be minded, that both Session and Town-Council do subscribe personally as the Heretors do. By the above-mentioned Act of Assembly, no person, under the Censure of the Kirk, is to be admitted to vote in the Election of a Minister. By

Who are habile Electors, who not? And what makes a Call Legal?

the 6 *Act* of the 4 *Seſſ.* of K. *William* and Q. *Marie*'s *Parl.* all perſons whoſoever, giving Voice in calling of Miniſters, are, at their Meeting appointed for that Effect, to ſwear the Oath of Alledgeance, and ſubſcribe the ſame, with the Aſſurance.

When a Presbytery may plant a Vacancy, Tanquam jure Devoluto.

§ 5. By that ſame laſt mentioned Act of *Parliament*, it is Enacted, That if Application be not made by the Elders and Heretors of the *Pariſh*, to the *Preſbytery*, for the Call and Choice of a Miniſter, within the ſpace of ſix Moneths after the Vacancy, that then the Preſbytery may proceed to plant a Miniſter *tanquam jure devoluto. vide, Sect.* 3. *ſub finem.* And that forecited Act of Aſſembly 1649. Appoints, where the Congregation is diſaffected or Malignant, the Preſbytery to provide them with a Miniſter. Where a Pariſh, or its greater part, is Remiſs or Erroneous, and therefore will not, or delays to call a Miniſter, the Preſbytery, in that Caſe, by their Power from Chriſt, may give a Miſſion or Call to a particular perſon, and ordain him to labour in the Work of the Miniſtry among that people; By virtue whereof, he hath Right to enjoy both Office and Benefice. By the 18 Canon *Concilii Antiocheni*, it is determined, *Si quis ordinatus non ierit in parochiam ad quam eſt ordinatus, non ſua quidem culpa, ſed propter populi recuſationem, vel aliquam aliam cauſam, quæ a ſe non oritur is ſit & honoris & muneris particeps.*

The Meeting of Electors; The Election it ſelf; The Call ſigned; The Power of the abſent Electors accreſceth to theſe preſent.

§ 6. When the Day is come on which the Electors were appointed to meet, by the above-mentioned Order of Intimation, the Miniſter whom the Presbytery ordered to Moderate at the Election, having ended Sermon, and diſmiſſed the Congregation, except theſe concerned, is to open the Meeting of Electors with Prayer, and thereafter they proceed to vote the perſon to be their Miniſter, as they are called upon by the Seſſion-Clerk, who is alſo Clerk to that Meeting: Which Vote being taken and carefully marked, the Moderator is to pronounce the Mind of the Meeting,

viz.

viz. That a Call be given to the perſon named: Which the Clerk is to have ready drawn up to be read and ſigned by them in preſence of the Moderator. The Meeting of Electors having been conveened upon the Preſbyteries Intimation, if either Heretors, Elders, or Town-Council be wanting or abſent, their Power accreſceth to theſe preſent, they having all had the lawful Advertiſement given them, and none of theſe diſtinct Bodies has a Negative upon another.

Form of a Call.

§ 7. We the Heretors, Elders, and Magiſtrates of the Town-Council of being deſtitute of a fixed Paſtor, and being moſt aſſured by good Information, and our own Experience of the Miniſterial Abilities, Piety, Literature and Prudence, as alſo of the Suteableneſs to our Capacities of the Gifts of you Mr. *A. B.* Preacher of the Goſpel, or Miniſter at *C.* have agreed, with the Advice and Conſent of the Pariſhioners foreſaid, and Concurrence of the Reverend Preſbytery of *D.* to Invite, Call and Intreat. *Likeas*, We by theſe Preſents do heartily Invite, Call and Intreat you, to undertake the Office of a Paſtor among us, and the Charge of our Souls. *And furder*, upon your accepting of this our Call, promiſe you all dutyful Reſpect, Encouragement and Obedience in the Lord. In Witneſs whereof, *&c.*

The Atteſtation of a Call. And what is to be done, if the Electors divide in voting.

§ 8. Thereafter the Moderator is to atteſt, that conform to the Presbyteries appointment, he did Moderate at the Meeting of Electors, the Plurality or All whereof preſent, made choice of Mr. *A. B.* to be their Paſtor at ſuch time and place. Which Atteſtation he is to ſign upon the Call, *See Sect.* 33. In caſe there be a Parity among the Electors Votes, (that is, when they ſplit or divide in their calling of two perſons) Then the Moderator muſt either be allowed the caſting Vote, or elſe Application muſt be renewed to the Presbytery to conveen the Electors a ſecond time.

§ 9. The

Patronages described, and how acquired at first?

§ 9. The Right of Patronage according to *Streinius* his *Summa Juris Canonici*, is a Power to present a fit person to a vacant Church Benefice: Which Right is acquired several ways; As, 1. When one gifts Ground to build a Church upon. 2. If with consent of the Bishop one build a Church. 3. If one bestows upon a Church, or Mortifies to these serving the Cure thereat, some considerable Maintenance: These three ways are contained in that known Verse, *Patronum faciunt, Dos, Ædificatio, Fundus.* The 4*th* way is, An immemorial Custom of Presenting. 5. By a Privilege and Gift thereto derived from the Pope.

Patronages, how considered under Prelacy.

§ 10. The Right of Patronages with us in times of the late Prelacy became so twisted with other secular Interests, that it was expressly avowed and pleaded for as a part of a Man's private Patrimony, the Rights whereof he had settled and confirmed to him and his Heirs, as these of his other Estate, by Charters under the Seals, and might lawfully sell and dispose of it, and from which he could not be excluded without Injustice; These Rights were then transmitted according to the common Degrees and Rules of Blood.

The Opinion of this Church of it.

§ 11. This Church maintains that the Patron's pretended Privilege of a Negative Interest in the Call and Maintenance of Ministers, is a sinful and wronguous Usurpation, without Warrant from the Word of God, destructive of the true Liberties and Interest of the Church, and most scandalously offensive to all Ranks of Christians therein. This is gathered from their Writings and Sermons, and Act of Assembly *August* 4. 1649.

Call presented and approved.

§ 12. The Minister who moderated the Call, and these commissionated to prosecute the same, shall next Presbytery Day present the Call to them. If they find no ground to demurr upon granting their Concurrence, then they are to grant the same, which the Clerk is to signify upon the Call. But if they find Grounds to delay or refuse their Ap-

Approbation, in that caſe theſe are to be particularly condeſcended upon in their Records: Thus the Presbytery is vindicated from Arbitrary Procedure, and Parties concerned have Acceſs to make Anſwer for themſelves.

Calls proſecuted to Expectants, or Miniſters.

§ 13. If the Call be to a Probationer within the Preſbyteries Bounds, then the *Preſbytery* is to put him upon Tryals, in order to Ordination. But if he be under the Inſpection of another *Presbytery*, then the *Preſbytery* to whom the Call was firſt preſented, and with which they have concurred, is to write, or ſend one of their Number, together with the *Pariſh* Commiſſioners, and deſire that *Preſbytery* where the *Probationer* reſides, to concurr with them in offering the Call to him, and Injoyning him to repair to the Bounds to which he is called, and there ſubmitt to the ordinary Tryals, in order to Ordination. How the Call ſhould be proſecuted to a fixed Miniſter, ſee in the following Title.

Calling and Entry of a Miniſter is to be directed by the Presbytery.

§ 14. It is to be remembred, that no Probationer or Miniſter, is to receive any Call to a vacant Congregation, but from the Hands of the Presbytery to which they belong: For, it is by their Determination, that the Calling and Entry of a Miniſter is to be ordered and concluded. K. *William* and Q. *Marie*'s *Parl. Seſſ.* 2. *Cap.* 23.

Ordination deſcribed: No Miniſterium vagum.

§. 15. Ordination is the ſolemn Act of the Presbytery, ſetting apart a perſon to ſome publick Church-Office: For this ſee the *Directory*. It is agreeable to the Word of God, and very expedient that ſuch as are to be ordained Miniſters be deſign'd to ſome particular Church, or other Miniſterial Charge; See the *Directory* and *Heads of the Polity of the Kirk*. As alſo, the 10*th Act*, *Cap.* 1*ſt.* of the *French Church Diſcipline*: Wherein they agree, that Miniſters ſhall not be ordained, without aſſigning them a particular Flock.

Mens Gifts ſhould be ſuited to their Poſts.

§ 16. By the ſame Article Miniſters muſt be fit for the Flocks which ſhall be aſſigned unto them. And by the Act of

of Aſſembly 1596, ratified *December* 1638, it is determined, That becauſe Men may be fit for ſome places, who are not meet for others: The principal Places are to be provided with Men of moſt worthy Gifts, and none are to accept of a greater Charge than they are able to diſcharge. Indeed when a Miniſter is endowed with Prudence, and hath Love and Reſpect from his People, a greater Charge will be eaſier to him than to another.

Tryals of an Intrant to the Miniſtery. And ſerving of his Edict.

§ 17. On a Probationer's accepting of the Call of a Pariſh, which is underſtood to be done when he ſubmitts himſelf to the Presbytery to undergo his Tryals in order to Ordination, he is by them to be tryed, as when he was Licens'd (for which ſee that Title) except the Homilies and previous Catechetick Tryals. When the Presbytery is ſatisfied of his Tryals, they ſend one of their Number to preach in that Congregation, and after Forenoons Sermon, to intimate to them, that the Probationer whom they have called to be their Miniſter, his Edict was now to be ſerved. Which Edict, after Reading by him or the Precenter, is to be affixed by the Beddal upon the moſt patent Church-Door: The Tenor whereof is as followeth.

Form of an Edict.

§ 18. This Preſbytery having received a Call from the Pariſh of to Mr. *A. B.* Preacher of the Goſpel, to be their Miniſter, and finding the ſame orderly proceeded, and the ſaid Mr. *A. B.* having undergone all the parts of his Tryal, in order to his Ordination; And the Preſbytery upon the whole judging him Qualified to be a Miniſter of the Goſpel, and fit to be Paſtor of this Congregation, have reſolved to proceed, unleſs ſomething occurr which may juſtly impede the ſame: And therefore do hereby give notice to all perſons, eſpecially the Members of this Congregation, that if any of them have any thing to object, why the ſaid Mr. *A. B.* ſhould not be admitted Paſtor here, they may repair to the Preſbytery, which is to meet at the day of with Certification, that if

no

no perſon object any thing that Day, the Preſbytery will proceed without further delay.

The Edict Returned & Executed.

§ 19. The Presbytery meeting as it was appointed by the Preceeding, for receiving the Execution of the Edict, which ought to be ten free Days after ſerving of the ſame, the Miniſter who was appointed to preach at ſerving of the Edict, is to give an Account of his Diligence, and return the Edict indorſed by himſelf or the Precenter and Beddal. Then the Presbytery is to order their Officer three ſeveral times, at the moſt patent Door of the Church, to give Notice, that if there be any there who has any thing to object againſt the perſon called his being their Miniſter, they may come and do it to the Presbytery, with Certification, as in the Edict.

Ordination Day ſet, and intimated: And what Day moſt convenient for the Faſt.

§ 20. If there be no material Impediment found, the Presbytery is to name a convenient Day within leſs than ten Days, if it can be, for their Meeting to ordain the Candidate at the Church of the Congregation to which he is to belong. The Day appointed for his Ordination, is to be intimated from the Pulpit on the Lord's Day preceeding, inviting all to be preſent, and telling them that they are to ſet apart that Day as a Faſt to be by them obſerved with more than ordinary Supplication, for the Aſſiſtance and Bleſſing of GOD upon the Ordinance of Chriſt, and Labours of his Servant. But the Ordination Day is more proper for Thankſgiving than Faſting, and Experience may confirm us herein: For we find, that on the Account of ſome things convenient to be done that Day, another before were fitter to be obſerved for the Faſt.

Popular Ordination condemn'd, from Acts 6. 3.

§ 21. Our Church doth condemn any Doctrine that tends to ſupport the Peoples power of ordaining their Miniſters: For by the 5*th* Act of Aſſembly 1698, upon Information that a Divine of the Church of *England*, had in his Sermon charged them as Corrupters of the Word of God, who, to favour popular Ordinations, had cauſed that

passage of Scripture *Acts* 6. 3. *Whom* WE *may appoint over this buſineſs*, to be printed, *Whom* YE *may appoint*, &c. They did unanimouſly diſclaim the above-mentioned Errour of the Preſs, and did declare they did not own any other Reading of that Text to be according to the Original, but *Whom* WE *may appoint*, *&c.*

The Ordination Sermon, and Preface to the Action.

§ 22. The Ordination Day being come conform to the Presbyteries Appointment, one of their Number preacheth; The Subject of whoſe Sermon ſhould be concerning the Qualifications of Miniſters, and the Reciprocal Duties betwixt them and their People. The Sermon, Prayer, and Praiſes after Sermon being ended, the Miniſter from the Pulpit is to ſhew the Occaſion of the Days Meeting, and all the Steps of the Preſbyteries Procedure hitherto, with reſpect to that Affair.

The Queſtions to be anſwered by the Intrant before Impoſition of Hands, Or, His Ordination Engagements.

§ 23. Then the Miniſters call on the Intrant, who in Face and Audience of the Congregation, is to anſwer to theſe following Queſtions, 1. If he doth believe the Scriptures of the Old and New Teſtaments, and the Truths therein contained to be the Word of God? 2. If he doth own, and will adhere unto the Confeſſion of Faith, and Catechiſms of this Church, and Doctrine therein contained, as being founded on, and conſonant to the Holy Scriptures? 3. If he will be Faithful and Zealous in maintaining all the Truths of the Goſpel, the Unity of the Church, and Peace thereof, againſt all Errour and Schiſm whatſoever, notwithſtanding of what Trouble or Perſecution may happen? 4. If he do likewiſe own and will adhere to the Worſhip, Diſcipline and Government of this Church, as being founded on and conſonant to the Holy Scriptures? 5. If he hath been led in his deſigning the Work of the Miniſtery, by a ſingle and ſincere Love to God, and Aim at His Glory in the Goſpel of His Son, and not by filthy Lucre, and the Motives of Worldly Gain, as the great Inducement moving him to the Miniſterial Work? 6. If he hereby engage to be Diligent

and

and Aſſiduous in Praying, Reading, Meditating, Preaching, Adminiſtring the Sacraments, Catechizing, and Exerciſing of Diſcipline, and in performing all other Miniſterial Duties toward the People committed to his Charge? 7. If he reſolves to own his Ordination to the Holy Function of the Miniſtery, and to continue in Duty, notwithſtanding of any Trouble that may ariſe in the Church hereafter, *vide Quæ.* 3? 8. If he will humbly and willingly ſubmitt himſelf unto the Admonitions of his Brethren, and Diſcipline of this Church? *Laſtly*, If he will take care that he himſelf and his Family ſhall walk Unblameably, be Examples to the Flock, and Adorn the Profeſſion of the Goſpel by their Converſation?

The Place where, and the Manner how Ordained.

§ 24. In the moſt Conſpicuous Place of the Church, and near to the Pulpit, a Table and Seats being plac'd, where the Brethren of the Preſbytery, the Heretors and Elders of the Congregation, with the Magiſtrates and Council, when in Burghs Royal, are to ſit, together with the Intrant, ſo that all the Miniſters may conveniently give him Impoſition of Hands, and the Others may take him by the Hand, when thereunto called: The Miniſter is to come from the Pulpit to the foreſaid place, where the Intrant kneeling, (for the more decent and convenient laying on of Hands) and the Brethren ſtanding, He, as their Mouth, in their Maſter's Name and Authority, doth in and by Prayer ſet the Candidate apart (not only the Miniſter who Prays, but all the Brethren that conveniently can, laying their Hands upon his Head) to the Office of the Miniſtery, invocating God for His Bleſſing, to this Effect.

Directory for Ordination Prayer.

§ 25. Thankfully acknowledging the great Mercy of God in ſending Jeſus Chriſt for the Redemption of His People, and for His Aſcenſion to the Right Hand of God the Father, and thence pouring out His Spirit, and giving Gifts to Men, Apoſtles, Evangeliſts, Prophets, Paſtors and Teachers, for the gathering and building up of His Church, and

for fitting and inclining this Man to this great Work, and to intreat Him to fit him with His Holy Spirit, to give him, who in His Name is set apart to His Holy Service, to fulfil the Work of the Ministery in all things, that he may both save himself and the People committed to his Charge.

The Right Hand of Fellowship; He is saluted as Minister: The Conclusion of the Work.

§ 26. The Prayer being ended, the Minister who Moderates in the Action, takes the Person ordained by the Right Hand, saying unto Him, We give unto you the Right Hand of Fellowship, to take part of the Ministery with us, and thereafter all the Ministers of the Presbytery. Then the Heretors, Elders, and Magistrates, when in Burghs, should salute him as their Minister, in taking him by the Right Hand, as a Testimony of their Acceptance of him. Then the Minister returning to the Pulpit, after having had a short and pertinent Exhortation, both to the Minister and People, he is by solemn Prayer to commend both Pastor and Flock to God's Grace. Then he is to sing a part of a Psalm, such as 132, from verse 13, and dismiss the Congregation, with pronouncing the Blessing.

Form of an Act of Ordination & Admission.

§ 27. The whilk Day the Presbytery of met at the Kirk of considering that there had been a Call presented upon the Day of unto them, from the Heretors, Elders, and Parishioners of the said Parish of to Preacher of the Gospel, to be their Minister. To which Call the said Presbytery of their Concurrence was fought by the said Parish, within the Bounds of which Presbytery the said Parish lyes. And with which Call the said Presbytery did concurr, as their Act thereanent, dated *&c.* bears: *Likeas*, Conform to the Acts and Constitutions of this Church, observed in the like Cases, and at the Desire of the said Parish, the said Presbytery did put the said then only a Probationer, to all the parts of his Tryal for the Ministery, as is usual, wherein he was Approven to the Satisfaction of the said Presbytery. After which, the Presbytery of did cause serve his Edict at the

said

ſaid Church of in the due and orderly Form, on a Sabbath-Day, being the Day of Whereby it was publickly intimate to the ſaid Congregation, that in caſe any perſon had any thing to object againſt the ſaid Mr. why he ſhould not be Ordained and Admitted Miniſter to the ſaid Charge of They might apply themſelves to the ſaid Preſbytery of which was to ſit at the Day of where they ſhould be fully heard; With Certification as Effeirs. And accordingly, the Brethren of the Preſbytery met at the Day foreſaid, and the Edict being returned Indorſed, and all Parties concerned in the ſaid Congregation being lawfully called, and none compearing to object againſt the ſaid Ordination and Admiſſion, Therefore, the ſaid Preſbytery did determine to meet at the Kirk of upon the Day of in order to the Ordination and Admiſſion of the ſaid Mr. to the ſaid Pariſh, and appointed Mr. Miniſter of the Goſpel at within their Bounds, to preach at the ſaid Admiſſion and Ordination. Which being accordingly performed, the Brethren met Preſbyterially, taking the whole Matter to conſideration, as ſaid is, did then and there, in due Order and all requiſite Formalities, Solemnly Ordain, Admitt, and Set apart, by Impoſition of Hands and Prayer, the ſaid Mr. in Face of the whole Congregation there preſent, to the Sacred Order of the Miniſtery, in the ſaid Congregation and Pariſh; And afterwards was received to Miniſterial Communion by the Brethren of the Miniſtery, and by the Heretors and Elders as their Miniſter. This is Extracted, *&c.*

Ordination Sub Cruce, and Quorum for Ordination.

§ 28. While the Church doth enjoy Peace, and is at full Liberty, it is very reaſonable that the above comely Order ſhould be obſerved: But in troubleſome Times, and in Caſes of great Neceſſity, Miniſters muſt be ordained without particular Relation to a *Parochial* Charge, otherwiſe there ſhall be no Ordination in Times of *Perſecution*. By

Act

Act 4. *Cap.* 1. *Of the French Church Diſcipline*, It is declared, that in ſuch extraordinary Caſes, a Miniſter of the Goſpel may be ordained by three Miniſters: But in times of Peace, by no fewer than ſeven, and in caſe the Colloquy conſiſt of fewer, it ſhall call in ſome of the Neighbouring to accompliſh that Number.

The Manner of Election and Ordination at our Reformation.

§ 29. You'll find the old manner of electing and ordaining of Miniſters at the beginning of our Reformation, in *Knox* his *Forms* prefixed to the old *Pſalms*, that it was performed without Impoſition of Hands, and without a Nurſery of Expectants: Which notwithſtanding was an Ordination both valid and Lawful, eſpecially in that Infantile ſtate of this Reformed Church.

Re-Ordination of Popiſh Clergie, and Epiſcopal Incumbents.

§ 30. By the 2*d*. and 3*d*. *Articles*, *Cap.* 1. of the *French Church Diſcipline*, The Biſhops, Curats, Prieſts, and Friars, among the Popiſh Clergy, turning Proteſtants were to be Re-ordained by Impoſitionof Hands. And in the ſixth Seſſion of Aſſembly 1690. The Moderator is allowed and Authorized to declare in their Name, that they would Depoſe no Incumbents ſimply for their Judgment about the Government of the Church, nor urge Re-ordination upon them.

The Age and Literature of thoſe to be ordained.

§ 31. None are Allowed to enter the Miniſtery, under the Age of Twenty five Years, except ſuch as the Synod or Aſſembly judge fit for the ſame: *See Aſſem.* 1638. 1647. and 1704. Seſſion 10. Other Churches have likewiſe very much regarded the Age of Intrants to the Miniſtery, for by the 14 *Canon Concilii Sexti in Trullo*, It is ſaid, *Sanctorum Divinorumque patrum noſtrorum Canon in his quoque valeat, ut Presbyter ante trigeſimum annum non ordinetur, etiamſi ſit homo valde dignus*; Which Canon agrees with the 11*th Concil. Neocæſar.* This Church hath likeways a ſpecial Regard to the Literature of Intrants (of which more afterwards) And it is generally eſteemed an Eſſential Accompliſhment, that they ſhould have the *Latine Tongue*: For you'll ſee in the Supplement to *Calderwood*'s Hiſtory, that in

in the Aſſembly 1575. It was ordained, that none ſhould be admitted Miniſters, except ſuch as can Interpret and ſpeak Congruous *Latine*, unleſs the General Aſſembly for their ſingular Gifts and Graces, found cauſe to diſpenſe therewith. Accordingly they have, both of old and of late, diſpenſed therewith; Particularly the Aſſembly 1708. appointed the Preſbytery of *Sky*, after Tryal of his other Qualifications, to ordain one to be Miniſter at St. *Kilda*, who wanted the *Latine Tongue*.

None having the Iriſh Language, to be fixed in the Low-Lands, or theſe born on the north ſide of Tay, *to be ſettled in the* South.

§ 32. By the 9*th* Act of Aſſembly 1699. Miniſters and Probationers having the *Iriſh Language*, are not to be ſettled in the *Low-Country*, till the *High-Land* places be firſt provided: And by the 16*th* Seſſion of the ſame Aſſembly, Preſbyteries are to be cenſured, who ſettle any Probationer in the *South*, who was born on the *North* ſide of *Tay* (except it be in the caſe of a Call given to ſuch Probationers by the City of *Edinburgh*) till they have been twelve Moneths in the *North*, without receiving a Call there; In which caſe they are free to come *South*, and accept of a Call. And any *North-Country* Probationer, who ſhall be otherwiſe ſettled, is *ipſo facto* Tranſportable. And no doubt the ſame Certification may be extended againſt Miniſters and Probationers, having the *Iriſh Language*, that are ſettled in *Low-Land* Congregations, contrary to the foreſaid Act, conform to the 11*th* Act of Aſſembly 1708.

How Calls are proſecuted from the North, *and how they differ from the ordinary Method.*

§ 33. By the 16*th* Act of Aſſembly 1697. for the more expeditious planting of the *North*, the Agent of the Kirk, or any perſon deputed by him, is authorized to proſecute Calls from the north ſide of *Tay*, and other Preſbyteries there mentioned, to any Miniſter belonging to any Pariſh on the ſouth ſide of *Tay*: But as for Pariſhes in the *South* of *Scotland*, they proſecute Calls thus. After the Call hath been Signed and Atteſted, as in *Sect.* 8. the Moderator is to propoſe to the Meeting, that they appoint ſome of their Number, not only to preſent their Call to the Preſbytery, for

for their Approbation and Concurrence, but to profecute the ſame till it be brought to an Iſſue: Which Commiſſion is to be ſigned by the Moderator and Seſſion-Clerk, in reſpect that all the Deeds of that Meeting are recorded in the Seſſion-Books.

The Army, by whom to be inſpected, and how to be fix'd with Miniſters.

§ 34. By the 13*th* Act of Aſſembly 1697, upon a Letter from the Commander in Chief of His Majeſties Forces, it is recommended to the reſpective Kirk-Seſſions where the Forces are quartered, to provide them with convenient Seats for hearing, and to inſpect them as they do other Pariſhioners. And the Commiſſion of the General Aſſembly, upon Application from the Chief Commanders, is to ſettle Miniſters in Regiments belonging to this Kingdom: But when the Commiſſion is not inſtructed to receive ſuch Applications, then, no doubt, they are to be made to the Presbyteries. Thus we ſee that Miniſters do not receive their Warrant to take Overſight of a Regiment, as Colonels and other Officers do their Commiſſions from the Sovereign.

Differences about Intrants, how compoſed.

§ 35. By the 13 Act of Aſſembly 1708. it is tranſmitted as an Overture to Presbyteries, that when the Sufficiency of Intrants to the Holy Miniſtery is conteſted in the Preſbytery that ordains them, that in this caſe the Preſbytery ſhall referr the whole Affair to the reſpective Synods, and that the Synod ſhall appoint ſome of their Number to Examine *Coram* ſuch Intrants, and give Directions to the Preſbyteries in ſuch Caſes.

TITLE II.

Of Tranſportation and Admiſſion of Miniſters.

Tranſportation deſcribed.

§ 1. TRanſportation or Tranſlation, is, An Authoritative looſing of a Miniſters Relation to one Charge, and a making up of that ſame Relation betwixt him and another, done for the greater Good of the Church. This Act hath no Reſſemblance to the diſſolving of the Relation it ſelf betwixt a Miniſter and the Church, as in the Cenſure of Depoſition: But it only reſembles a Maſter's taking one from labouring in ſuch a part of his Vineyard, to continue the ſame Work in another part thereof.

Calls muſt be managed and directed by the Preſbytery.

§ 2. No Miniſter is to receive or entertain a Call from another Congregation, till it come to him by his own Preſbytery. And any Man tranſporting himſelf to another Congregation, deſerves both to be looſed from his own Charge, and debarred from entring into the other; The *Canoniſts* upon this Title do thus determine, *Qui enim ſua propria authoritate ad aliam ſe transfert Eccleſiam, priore relicta, & ſuam amittit & ab aliena repellitur. Vide Petri Biarnoy Examen Juridicum.*

How a Presbytery proceeds in preſenting a Call.

§ 3. The Preſbytery having heard by Word or Petition theſe commiſſioned from the vacant Congregation to proſecute the Call, and after ſuſtaining their Commiſſions, and finding the Call, as to what appeareth at preſent, to be Orderly, and the Reaſons thereof not without ſome Ground and Weight, they are thereafter, at the ſame Diet, to deliver their Call by their Moderator, to the Miniſter deſired to be tranſported, with the Reaſons thereof, and to ſummon him, *Apud Acta*, to appear before the Preſbytery, the

Time for Compearance being at leaſt fifteen free Days thereafter.

The ordinary Method for citing in Tranſportations.

§ 4. If the Miniſter called be abſent from the *Preſbytery*, then the Call, with the Reaſons thereof, or rather a Double of both atteſted under the Clerk's Hand, are to be delivered to him by the *Preſbytery* Officer, either *Perſonally*, or at his Dwelling-Houſe, together with a Citation for him and his *Pariſh* to appear, *ut ſupra.*

Form of a Summons of Tranſportation.

§ 5. *A. B.* Moderator, *&c.* Foraſmuch as, the Heretors, Elders, *&c.* of the *Pariſh* of have applyed to us for our Warrand and *Precept* to cite Mr. *C. D.* Miniſter at and the *Pariſhioners* thereof, to hear and ſee the ſaid Mr. *C. D.* tranſported in manner, and to the effect underwritten, conform to a Call given him by the ſaid Pariſh. Herefore, We require you, that upon ſight hereof, ye paſs and lawfully Summon the ſaid Mr. C. D. Perſonally, or at his Dwelling-place: And ſicklike, All and Sundry the Pariſhioners of the ſaid Pariſh of by open reading hereof, and affixing an juſt Copy of the ſame at and upon the Pariſh Kirk Door, upon a Sabbath Day before Noon, immediatley after Sermon and pronouncing the Bleſſing, all upon fifteen free Days warning, to compear before the ſaid Preſbytery, within the Kirk of upon the day of next to come, in the Hour of Cauſe, with continuation of Days, to hear and ſee the ſaid Mr. *C. D.* tranſported by Sentence of the ſaid Preſbytery, from the ſaid Pariſh of to the ſaid Pariſh of to ſerve in the Work of the Miniſtery thereat; Or elſe to alledge a reaſonable Cauſe in the contrair. With Certification to them if they failzie, they ſhall be holden as conſenting to the ſaid Tranſportation: And the ſaid Preſbytery will proceed to do therein, according as they ſhall find Juſt. And this our *Precept* you are to Return duely Execute and Indorſate; Given at by *A. B. Prbrii. Cls.*

§ 6. If

§ 6. If the Presbytery have Ground to fear that their Officer may meet with Moleſtation or Oppoſition, in executing of their Summons, the General Aſſembly for preventing of Deforcement and Profanation of the Sabbath, by their Act *7th* 1704. Ordains the Miniſter himſelf being cited *Apud Acta* by the Preſbytery, or, if abſent, by the Presbyterie's Letter, to be preſent at the Day appointed for hearing the Cauſe; Whereof the Miniſter is appointed to give Advertiſement from the Pulpit, to his Elders, Heretors, *&c.* In ſhort, to all that were concerned in calling him, that if any of them has a mind to defend their Right to him, they may be preſent at the Preſbytery on ſuch a Day. For which Cauſe the Miniſter is appointed to communicate unto them the Call and the Reaſons thereof tranſmitted to him. But this he ought alſo to communicate in all ordinar Citations, if he intends the Pariſh ſhould defend their Right and Poſſeſſion. As for this extraordinary Way for citing a Pariſh, there was more need for it at the beginning of our happy Revolution, when there were few Miniſters and Expectants, and many competing Vacancies. But now when the Churches are generally planted, and ſeing there is ſuch a plentiful Nurſery of hopeful Probationers for ſupplying the few remaining Vacancies, there is rather Ground to fear that there be competing different Calls from one Pariſh, than of Calls from diſtinct Pariſhes to one Man. But if it ſhould happen that neither Miniſter nor Pariſh compear, then the Preſbytery is to grant Certification againſt them, by holding them as conſenting to the deſired Tranſportation.

How, in extraordinary Caſes, a Pariſh is to be cited.

Call and Reaſons muſt be imparted to the Pariſh.

Extraordinary Citations rarely needed in a well planted Church.

What done in the Caſe of Non-Compearance.

§ 7. By the *6th* Act of Aſſembly 1694. it is recommended to vacant Pariſhes, That they do not attempt a Tranſportation, till they firſt ſeriouſly eſſay and follow other Means of providing themſelves: Which is indeed the ſpeedy Way to increaſe the Number of Labourers in the Lord's Vineyard, and to continue others at the place appointed for their Work.

Vacancies muſt firſt eſſay to call Probationers.

How Debates in Tranſportations ſhould be managed.

§ 8. By that ſame Act of Aſſembly, all Debates in Proceſſes of Tranſportation, muſt be managed with that Meekneſs and Brotherly Kindneſs, as becometh Parts and Members of the ſame Body of Chriſt, and that they repreſent their Reaſons and Anſwers with Perſpicuity and Brevity.

Rash Appealers in Tranſportations, when to be Cenſured.

§ 9. And to prevent contentious Appeals in ſuch Matters, it is ordained by that Act, That if both the competing Pariſhes be within the ſame Preſbytery, in that Caſe the Preſbyterie's Deciſion ſhall be obeyed, or if the Pariſhes be in different Preſbyteries, and both Presbyteries in the ſame Synod, in that Caſe the Deciſion of the Synod ſhall take effect. But with Certification, that the reſpective Judicatories appealed from, ſhall be Cenſured, if they be found to have Malverſed; And on the other Hand, if any be found unneceſſarly to purſue Appeals and Complaints, they ſhall be ſeverely Cenſured therefore.

Every Benefice ſhould be Recorded.

§ 10. By the 5*th* Act of Aſſembly 1702. the Pariſh craving Tranſportation is to ſatisfie the Judicatory, if there be a legal Stipend, and a Decreet therefore: It were to be wiſhed that the Church were truely and better informed of the Quantity & Circumſtances of every Benefice within the Nation, that ſo they might be directed to apply accordingly: And for that end let Presbyteries be appointed to give in an exact Account of theſe within their Bounds, that the ſame may be Inſert and Regiſtrate in the Books of the General Aſſembly, conform to the Act *Auguſt* 31. 1647.

How the Suteableneſs of Men's Gifts is to be tryed, and what is meant by Eminent Congregations.

§ 11. Actual Miniſters, when tranſported are not to be tryed again as was done at their Entry to the Miniſtery. But only the Presbytery in which the Calling Pariſh lyes ſhall Judge of his Gifts, from what they have heard of him in the Exerciſe thereof, whether they be fit and anſwerable for the Condition and Diſpoſition of that Congregation. There are Abilities requiſite to make one a fit Miniſter for ſome conſiderable Pariſhes, which are not ſo neceſſary to

one

one in a ſmall private Pariſh. Eminent Congreations are ſuch, where are Univerſities, Towns and Burghs, Places of Noblemens Reſidence, or Frequency of Papiſts. *vide Aſſem.* 2. *Aug.* 1642. interpreting the Act 1596. concerning the Tryal of Miniſters, ratified *Decemb.* 17. 1638. and § 16. *Tit.* 1.

Prayer is to be made before entring upon the Proceſs. of Tranſportation.

§ 12. As there uſeth to be ſolemn Prayer at the fixing of a Miniſterial Relation to a certain Charge, ſo when that is changed and carryed into another; It is very fit, as is uſed, that Light and Direction ſhould be ſought in ſuch a weighty and concerning Matter to the Church, from the glorious God and bleſſed Head thereof, and that immediately before the Judicatory enter upon the Proceſs.

Form of an Act of Tranſportation.

§ 13. The which Day anent the Summons touching and anent the Citations given to the ſaid Mr. *A. B.* and his ſaid Pariſhioners, to have compeared before the ſaid Presbytery, at certain Days now by-paſt, with continuation of Days. The ſaid Summons, and all Parties having Intereſt, being called in preſence of the ſaid Presbytery; and laſt of all, upon the Day and Date of thir preſents, the ſaid Purſuers compeared by their Commiſſioner. And the ſaid Mr. *A. B.* and his Pariſh of being Lawfully Summoned, and they compearing. The ſaid Presbytery having heard and conſidered the Call given to the ſaid Mr. A. B by the ſaid Pariſh of and the Reaſons produced by the Purſuers for Inforcing the ſaid Tranſportation, and alſo having maturely conſidered the Good and Advantage of the Church in the ſaid Tranſportation, and being well and ripely adviſed in the haill Premiſſes, the ſaid Presbytery (after calling upon God for Light and Direction) by their Vote have tranſported, and hereby tranſports the ſaid Mr. A. B. from the ſaid Pariſh of to the ſaid Pariſh of to ſerve in the Work of the Miniſtery, as their lawful Paſtor thereat, and appoints Mr. C. D. Miniſter of to declare the ſaid Kirk of vacant upon Sab-

Sabbath the Day of conform to the Acts, Practice, and Conſtitutions of this Church uſed in the like Caſes.

When the two Pariſhes ly in different Judicatories, How?

§ 14. If the Congregation to which the Miniſter is called doth ly in the Bounds of another Presbytery, then the Presbytery to which he belongs does only tranſport him, declares his Kirk vacant, and appoints him to wait for, and obey the Orders of the Presbytery where the Charge lyes, to which he is tranſported, as to the time of his Admiſſion thereto. But if both Pariſhes ly within the Bounds of the Judicatory which Tranſports, then they appoint the time of his Admiſſion alſo.

Miniſters without Flocks, how admitted.

§ 15. If the Miniſter called had not any Relation to a particular Charge in the Church, then the Presbytery hath nothing to do but admitt him after the former Steps of Call and Edict, *&c.*

The Manner of admitting Miniſters.

§ 16. When a Miniſter formerly ordained, comes to be admitted Miniſter in ſuch a Congregation, the ſame is performed by the Presbytery in face of the Congregation, with the ſame Solemnities of an Ordination: Only there is no Re-impoſition of Hands, nor any thing that is peculiar or eſſential to Ordination. And the only Queſtions needful are theſe, 1. If he does adhere unto, and promiſe in the Lord's Strength, to perform his Ordination Engagements? 2. If he hath had any indirect Hand in his own Tranſportation or Admiſſion to this Pariſh? 3. If he doth now accept of the Charge of this Pariſh, and promiſe in the Lord's Aſſiſtance to diſcharge all the parts of the Miniſterial Function among them Faithfully?

The Form of an Act of Admiſsion.

§ 17. The Presbytery of being met at the Pariſh Kirk of conform to an Appointment made by the ſaid Presbytery, dated to the Effect under-written. Taking to conſideration that the preſent Magiſtrates, Town-Council, Heretors and Elders of the ſaid Burgh, and Pariſh of had given a Call to Mr. A. B. Miniſter of the Goſ-

Goſpel, inviting him to be their Miniſter. And ſicklike, That the ſaid Call had been orderly preſented to the ſaid Presbytery,& by them ſuſtained,and alſo that the ſaid Call had been accepted by the ſaid Mr. A.B. and that thereupon the ſaid Presbytery had appointed the ſaid Mr. A. B. his Edict to be ſerved upon Sabbath the Day of And alſo appointed a Meeting of the ſaid Presbytery for his Admiſſion, to be held this preſent Day and Place, The ſaid Presbytery being now met conform to the ſaid Appointment, and having ſeen and conſidered the ſaid Edict duely and orderly Served and Indorſed, and Returned conform to the practice of this Church, did cauſe thrice publickly call all having, or pretending to have Intereſt, to compear and propone their Objections, if they any had, againſt the ſaid Mr. A. B. his Life, Doctrine, or Qualifications, or againſt the foreſaid Call, and the procedure thereon above-mentioned, why he ſhould not be admitted lawful Miniſter of the ſaid Burgh and Pariſh: But none compeared to object thereagainſt. Likeas thereupon after Sermon preached conform to Appointment of the ſaid Presbytery by M. C. D. Miniſter at The ſaid Presbytery did in preſence of the haill Congregation there aſſembled for the time, Admitt, Receive and Appoint the ſaid Mr. A. B. to be Miniſter of the foreſaid Burgh and Pariſh, according to the Order and Practice of this Church. And ſicklike, The Magiſtrates, Town-Council, Heretors and Elders of the ſaid Burgh and Pariſh,did take the ſaid Mr. A.B. by the Hand, in Teſtimony of their Receiving him to be their Miniſter. Extracted forth of the Records of the ſaid Preſbytery, by &c.

§ 18. Acts of Ordination and Admiſſion by the Presbytery, are in place of Preſentation, Collation, and Inſtitution, and ſerve for them all, as a ſufficient and legal Title to the Benefice.

The Effect and Uſe of Ordination and Admiſſion Acts.

§ 19. Some

Impediments to Admission, not always Grounds for Deposition.

§ 19. Some Things there are which may debarr a Man's Entring into the Miniſtery, and may be Reaſon enough for the Church to ſhut the Door upon him, ſuch as ſome Miſtakes and Eſcapes offenſive in the Life, that may proceed from Raſhneſs, Weakneſs, Ignorance, or want of Prudence: Yet when once he is Admitted, and Entered, the like Eſcapes will not be found ſufficient to depoſe and thruſt him out: For, *Multa impediunt Matrimonium contrahendum, quæ non dirimunt contractum.*

TITLE III.

Of Acts of Tranſportability, of Dimiſſions, and Miſſions, and Colleague Miniſters.

The Ground for and Method of proſecuting this Act.

§ 1. WHEN a Miniſter labours under inſupportable Grievances in a Pariſh, whereby his Miniſtery is rendered Un-edifying to the people and uncomfortable to himſelf; In theſe Circumſtances (all other Means having been eſſayed and prov'd ineffectual for Redreſſing his Grievances) the Paſtor doth apply to the Presbytery for an Act of Tranſportability. Whereupon they appoint one of their Number to preach at that Kirk, and after Forenoons Sermon, to advertiſe the Pariſh, being the Defenders, to appear before the Presbytery, on ſuch a Day, and there hear and ſee their Miniſter obtain that Act in his favours, or otherways to propone Reaſons in the contrair. After hearing of both Parties, their Brother's Complaint being found Relevant and Verified, an Act of Tranſportability is granted.

§ 2. By

§ 2. By which Act the Presbytery looseth their Brother's Relation to that Parish as fixed Minister thereof, and declares that through their Direction and Inspection, he is capable to receive a Call to any other Charge, without their being called as having any Interest: Yet in the mean time, till such an Occasion of Removal be offered, they do appoint him to exerce his Ministry in that Parish; Whereby his Right to intromett with the Benefice continueth as formerly, the Act of Transportability being occasioned thro' the Peoples Fault. But this Act will be but rarely sought in a well planted Church; And, without granting it, the Presbytery may use innocent and prudent Methods for obtaining a Call to their grieved Brother from some vacant Parish, which will as effectually answer the End as such an Act can do. Upon the whole, this Practice hath been but rare, and its Expediencie, to say no more of it, is disputed by many. *The Nature and Import of this Act.*

§ 3. It is in the Churches Power to accept of Dimissions or not, as they find the Grounds of them to be. They use to run in these Terms. I Mr. *A. B.* Minister at C. for such Causes dimitt my Ministery at the said Parish of C. purely and simply in the Hands of the Presbytery of D. declaring that for my part, the said Parish shall be held vacant, and that it shall be free to the Parish and Presbytery after due Intimation hereof, by Warrand of the Presbytery, to call and plant another Minister therein, And consents that this be recorded in the Presbytery Books, *ad futuram rei memoriam.* In Witness whereof I have subscribed thir presents at *&c.* *The Causes and Stile of Dimissions.*

§ 4. Which Dimissions being received by the Presbytery, they are thereupon to appoint one of their Number to preach at that Kirk, and after Fore-noon Sermon to make Intimation of the Acceptation of the Dimission, and the Presbyteries Order thereon, to declare the Kirk vacant. The Execution whereof being reported to the Presbytery, *The Effect of a Dimission upon Intimation.*

and recorded by them, they are to proceed and plant that Pariſh, as they do other vacant Congregations.

In what Caſe the National Aſſembly ſends Miniſters in Miſſion.

§ 5. When the Vacancies are many, and the Miniſters in ſome part of the Church ſo few in Number, that it exceeds the Power of Claſſical or Provincial Aſſemblies, in whoſe Bounds they ly to ſupply them. Then the General Aſſembly who is concerned in theſe Bounds, as Parts of the National Church, doth appoint Miniſters by way of Miſſion to ſupply theſe Vacancies: for this See the Acts of ſeveral late Aſſemblies for ſupplying the North, and the Inſtructions given to their Commiſſions concerning that Affair. As alſo, by Appointment of this Church, Miniſters have been Tranſported, Ordained, and ſent in Miſſion, to the *Scots African* and *Indian* Companie's Colony in *Caledonia* in *America*.

In what Caſes they ſend to other Churches.

§ 6. Upon Petition from the moſt part of the *Scottiſh* Nation in the North of *Ireland*, in their own Name, and in Name of the reſt of the Proteſtants there to the General Aſſembly in the years 1642, 1643, and 1644. Repreſenting the Extreme Neceſſity they had of more Miniſters, and how this Church had formerly Supplyed other Churches in *Germany* and *France*. The Aſſembly being willing to Sympathize with every Member of Chriſts Body, although never ſo remote, much more with that Plantation which was a Branch of their own Church, They did for ſome Years ſend Miniſters in Miſſion to Supply there, as may be ſeen by the printed Acts in the Years above-named. But in Aſſembly 1690 Seſſ. 8. They Decline to ſend any Miniſters to *Northumberland* upon a Petition from ſome in that Countrey, in reſpect that theſe people do not belong to this National Church.

Churches ſhould ſend to the Heathens.

§ 7. As it is the conſtant prayer and Hope of the Reformed Churches that the Kingdom of Chriſt may and ſhall be Enlarged by ſending the Goſpel to the reſt of the Heathen; So, in Teſtimony of the Sincerity of theſe Hopes and Prayers,

ers, they muſt be joined with ſuteable Endeavours for ſpreading the Goſpel among them. This Church hath not that happy Opportunity, and Invitation of Concurring Providence to forward that Work that ſome other Churches have, through our want of Foreign Plantations, and by being Injuriouſly Diſpoſſeſſed of what we had, as the 38 Minute of the Proceedings in Parliament 1701 doth complain.

When a Colleague is needful. Aged & Sick Miniſters ſhould have both Maintenance and a Colleague.

§ 8. When a Pariſh, though not of ſo great Extent as to require a new Erection, becometh ſo Numerous, that albeit a Miniſter's Voice may eaſily reach them all, the Seats being conveniently placed: Yet he is not able alone to diſcharge the other Miniſterial Duties, with that Exactneſs and Eaſe which Paſtors of ordinary Pariſhes may do, it is but reaſonable in that Caſe to joyn a Yoke-fellow with him. By the Act of Aſſembly *July* 30. 1641. It is declared that old Miniſters and Profeſſors of Divinity, ſhall not, by their Ceſſation from their Charge, through Age and Inability, be put from enjoying their old Maintenance and Reſpect. This doth likeways agree with the 48 *Act. Cap.* 1. of the *French* Church Diſcipline. And by the Book of Policy *Chap.* 7. when Miniſters through Age, Sickneſs, or other Accidents, become unmeet to do their Office, in that caſe, their Honour ſhould remain to them, their Kirk ſhould maintain them, and others ought to be provided to do their Office. Thus they ſtill enjoy double Honour, *viz.* Reverence and Maintenance.

Colleagues muſt ſhare both Office & Benefice.

§ 9. When a Pariſh findeth Work for two Miniſters, and they divide the ſame equally between them, nothing can be reaſonably alledged againſt ſharing of their Wages from the Pariſh accordingly; Except it be ſaid, that he who gets the firſt Call to the greater Benefice, will from that take Advantage to keep poſſeſſion thereof. Which Practice, however it may receive Protection from ſtrict Law, yet Juſtice which is mixed with Equity and Kindneſs condemns it: Seing his Helper or Second is to be always as fit for

the ſame Charge as he, as is appointed by Aſſembly 1646. in the firſt Remedy propoſed againſt the Corruptions of the Miniſtery.

To which the Pariſh may oblige them, How? and When?

§ 10. When he who had the greater Stipend (it having been neglected at his Entry, to oblige him to divide the ſame equally with his Colleague) is now removed by Death, or otherways. Then the Pariſh is not obliged to allow the ſurviving Colleague to ſucceed to and uplift the firſt Stipend, except he be content and engage to amend his Predeceſſors Manners, which if he refuſe to do, at the ſight of his Callers and the Presbytery, then let him only enjoy the Stipend to which he was called. But the moſt effectual Way and proper Seaſon for obliging Colleagues to ſhare their Benefices, is thus to be done at their Calling and Admiſſion; Inſert in the Call, that as he is to be one of the Miniſters of ſuch a Pariſh, ſo he is to have the half of the Stipend: And let his Ordination and Admiſſion Act carry that ſame Qualification. But Colleagues of conſent may prevent this.

Publick Miniſterial Work is to be perform'd by mutual Conſent and private Diligence not to be hindered.

§ 11. By the Act of Aſſembly *December* 17, 18. *Anno* 1638. one of the Miniſters without Advice of his Colleague, is not to appoint Dyets of Communion nor Examination, neither to hinder his Colleague from Catechizing (to wit, from Houſe to Houſe) and uſing other Religious Exerciſes as oft as he pleaſeth. But now the Church-Seſſion doth direct as to theſe Dyets, for Communion eſpecially.

How they are to apply their Gifts.

§ 12. Colleagues are to apply themſelves to Doctrine, according to the Gifts wherein they moſt excell, and as they ſhall agree betwixt themſelves, *vid. Directory for preaching the Word.*

TITLE

TITLE IV.

Of Expectants, as alſo of Students *and Burſars.*

§ 1. THE Preſbytery is not only to hinder thoſe whom they know to be unfit, from entring upon their Tryals; But alſo they are to look out for, and ſtir up ſuch, whoſe Gifts are Promiſing, to ſubmit themſelves unto Tryal, and that albeit the one were a profeſſed Student of Theology, and the other were not. *Who they are that the Preſbytery ſhould encourage to enter upon Tryals.*

§ 2. Before any Preſbytery invite Students to paſs their Tryals, they are to be ſatisfied as to the Soundneſs of their Principles, and of their Sober, Grave, Prudent, and Pious Behaviour. And it is appointed, that ſuch Perſons ſhall produce, before the Preſbyteries who admitt them to Tryals, ſufficient Teſtimonials from the Miniſters of the Pariſhes where they lived, and from the legally eſtabliſhed Preſbyteries in whoſe Bounds they Reſided, and alſo from the Profeſſors of Divinity; See the 10*th* Act of Aſſembly 1694. As alſo, by an Act of the Aſſembly thereafter, It is recommended to Preſbyteries, before any be admitted to Tryals, that they ſee their Teſtimonials of their paſſing their Courſe in Philoſophy, and their obtaining their Degrees of Maſters of Arts in ſome Univerſity. And by the 13*th* Act of Aſſembly 1696. Probationers that apply to Preſbyteries are not only to bring ſufficient Teſtimonials, but alſo a Letter of Recommendation from a Perſon known to the Preſbytery. And by the 5*th* Act of Aſſembly 1705. Teſtimonials from *Wherein the Preſbytery is to be ſatisfied before they invite Students to enter upon Tryals.*

Profeſ-

Profeſſors of Theology, in favours of ſuch as are to enter upon their Tryals, are not to be regarded by Preſbyteries, unleſs they bear their Knowledge of theſe they Recommend to Tryals, as to their Moral and Pious Carriage, as to their Progreſs in their Studies, and their promiſing Parts, and of their good Affection to the Government of Church and State, and Fitneſs to ſerve the Church.

Expectants Tryals.

§ 3. The Tryals of a Student, in order to his being Licens'd to preach the Goſpel, do conſiſt in theſe Parts, 1. The *Homilie*, which is a Diſcourſe upon ſome Text of Holy Scripture aſſigned unto him by the Preſbytery, and delivered before them in private. 2. The *Exegeſis*, which is a Diſcourſe in *Latine* upon ſome common Head of Divinity appointed him by the Preſbytery, and delivered before them, at which time alſo he gives in the Subſtance of his Diſcourſe, Compriz'd in a ſhort Theſis or Doctrinal Propoſition in paper, which he is to defend, at the Presbyteries next Meeting, againſt two or three Miniſters who are appointed to Impugn his Theſis. 3. The Preſbyterial *Exercize* and *Addition*: The *Exercize* gives the Coherence of the Text and Context, the Logical Diviſion, and Explanation of the Words, clearing hard and unuſual Phraſes, if any be, with their true and proper Meaning according to the Original Language, and other parallel places of Scripture, propoſing and anſwering any Textual Queſtions that occur, and then a plain and ſhort Paraphraſe upon the Text: This is ordinarly the Work of one half Hour. The *Addition* gives the Doctrinal Propoſitions or Truths, which, without ſtraining, may be deduced from the Text ſo Explain'd, with Reaſons, Applications and pertinent Improvement and Application, as the other half Hour will allow. 4. A Lecture, or Expoſition of a large portion of Scripture, ordinarly a whole Chapter. 5. A popular Sermon. Theſe three pieces of Exercize, *viz.* Presbyterial Exercize, Lecture and popular Sermon, are to be in the Pulpit before the People.

People. 6. He is to be tryed in his Knowledge of the Original Languages, by interpreting a portion of the *Greek* New Teſtament, *ad aperturam Libri*, and reading and expounding a portion of ſome Pſalm in *Hebrew*. Of his Knowledge of Sacred Chronology, Eccleſiaſtick Hiſtory, eſpecially of our own Church, anſwering Extemporary Queſtions, of the Meaning of hard places of Scripture, on Heads of Divinity Polemick or Practical, on Caſes of Conſcience, on Church Government and Diſcipline, and is likeways to be tryed as to his Piety, Prudence and former Godly Converſation, Act of Aſſembly *January* 30. 1698.

Some Tryals are previous to theſe.

§ 4. By the 10*th* Act of Aſſembly 1704. Presbyteries are appointed to lay it on ſome of their Number to examine the Students in their own preſence upon the ſeveral Heads of Divinity, and the Government of the Church, and to know what Reaſon they can give of their Faith, and if they can anſwer to ſome principal Objections of Adverſaries againſt it, and that previouſly to all other parts of their Tryal. From all which it appears, that from the Beginning of Tryals, to the Time they are Licens'd to preach the Goſpel as Probationers for the Miniſtery, they are a full half Year exerciſed in order thereto, allowing the ordinary Meetings for Preſbyteries to be once a Month. Which Time for Tryals will yet be longer, if we conſider the 13*th* Act of Aſſembly 1708. appointing private Tryals concerning his Senſe, and Experience of Religion, yet previous to all theſe mentioned.

Expectants & Students Names to be Recorded in the Aſſembly Books.

§ 5. By the 3*d* Act of Aſſembly 1697. the Commiſſioners from the ſeveral Preſbyteries within this Church, are to bring in an Account to the General Aſſembly Yearly, of all Expectants or Probationers for the Miniſtery. As alſo, of all Students who attend Leſſons of Theology in Univerſities, and perform the Exerciſes enjoyned them there, that their Names may be read in open Aſſembly & Recorded in their Regiſter. Which is a Mean to bind all Candidates

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for the Miniſtery to a Circumſpect Walk, that the Church may receive good Impreſſions of them.

Form of an Act Licenſing one to preach the Goſpel, and his Teſtimonial, and Recommendation.

§ 6. At the Day of The which Day the Preſbytery of taking to their Conſideration, that in Obedience to ſeveral Acts of General Aſſemblies made anent Tryals in order to Preaching, they had upon the Day of Received ſufficient Teſtimonials in favours of Mr. *A. B.* Student in Divinity, and that thereupon they had appointed ſome of their Number to make Search and Enquiry into the Literature and Behaviour of him the ſaid Mr. *A. B.* Which Brethren having upon the Day of Reported, that according to the Appointment foreſaid, they had privately taken Tryal of his Knowledge in Divinity, and of what Senſe and Impreſſion he had of Religion upon his own Soul, and that they had Cauſe from what they found in the foreſaid Tryal, to judge him fit to be Received and Entered upon publick Tryals in order to his being Licens'd. Whereupon they, the ſaid Preſbytery, had admitted the ſaid Mr. *A. B.* upon Probationary Tryals, who having in all the uſual parts thereof, at divers times thereafter, acquitted himſelf to their Satisfaction and Approbation; Therefore they did and hereby do LICENSE the ſaid Mr. *A. B.* to preach the Goſpel of Chriſt as a Probationer for the Miniſtery within their Bounds, he having in their preſence undertaken the uſual Engagements appointed by the Acts of this Church. Extracted, *&c. Nota*, Theſe Engagements are here omitted, *brevitatis cauſa. vide § ſeq.* At his Removal out of the Bounds of the Preſbytery where he was Licens'd, his Teſtimonial is in this Form. At the Day of The which Day, the Preſbytery of do Teſtify and Declare, that Mr. *A. B.* Preacher of the Goſpel, has, ſince his being Licens'd by them, preached ſeveral times both at their Appointment and the Deſire of particular Brethren within the Bounds, to their Satisfaction, and that his Carriage,

ſo

ſo far as they know, hath ſince that time, been Pious, Exemplary and Edifying as became a Preacher of the Goſpel, and that he hath been obſequious to all their Appointments, Therefore they do by theſe Preſents Recommend the ſaid Mr. A. B. accordingly to any Preſbytery where GOD in his Providence ſhall caſt his Lot, for all due and ſuitable Encouragement from them. *Extracted*, &c.

A Probationer's Engagements when Licenſed.

§ 7. By the 10th *Act* of *Aſſembly* 1694, It is Appointed, That when Perſons are firſt Licenſed to Preach, they ſhall oblige themſelves to preach only within the Bounds, or by the Direction of that Preſbytery which did Licenſe them, and they ſhall alſo Promiſe and Subſcription Engage themſelves that they ſhall be Subject to the ſaid Preſbytery, or to any other Church Judicatory, where in Providence they ſhall have their Abode, and that they ſhall follow no Diviſive Courſe; which Engagement is to be Inſert in the Body of their Licence, *Vid.* §. 19. *Tit.* 25. *Lib.* 3.

What Preſbyteries or Pariſhes a Probationer may preach in, and when to renew his Engagments

§ 8. By that ſame *Act* it is Appointed, That when they are Removing from that Preſbytery which did Licenſe them, they ſhall carry with them an Extract of their Licence, and a Teſtimonial of their Carriage, which they are to produce to ſome Preſbytery Conſtitute by the Legal Eſtabliſhment, or at leaſt to ſome Miniſter therein, before they preach within that Bounds; Which Miniſter is not to Imploy them, except in his own Pulpit, till he give Notice thereof to the Preſbytery at their next Meeting. And they are then to require the ſame Subjection and orderly Carriage from them, during their Abode in that Bounds, to which they were Engaged to the Preſbytery by which they were Licenſed.

How Sentences againſt them ſhould be Intimated.

§ 9. And in caſe any Probationers ſhall have their Licences Suſpended or Recalled, for Errour in Doctrine or Malverſe in Converſation, then Intimation ſhall be made thereof by the Judicatory which hath ſo Cenſured them, to the Neighbouring Judicatories, or where they ſhall underſtand

the ſaid Probationers are, that ſo none may Imploy them to preach.

They have no Paſtoral Office. §. 10. And laſtly, By the ſame Act it is Declared that Probationers are not to be eſteemed by themſelves, or others to preach by virtue of any paſtoral Office, but only to make way for their being Called unto a paſtoral Charge.

Before Licencing, other Presbyteries acquainted. § 11. It is the laudable practice of ſome Preſbyteries to Licenſe no Probationers till they acquaint their Neighbouring Preſbyteries, that ſuch Perſons are paſſing their Tryals before them. And upon a Return that they know nothing that ſhould Impede their being Licenſed, then they proceed.

Each Preſbytery muſt maintain a Burſar. § 12. Every Preſbytery conſiſting of Twelve Miniſters, is Appointed to Maintain a Burſar (that is, One out of the Common Purſe) and where the Number is fewer than Twelve, they ſhall be joined to another Preſbytery. *Vide* Act of Aſſembly, *Aug.* 7. 1641.

The Quantity, Fund, Collection & Continuance of a Burſar's Maintenance. § 13. Every Burſar muſt have Yearly payed him An Hundred Pounds *Scots* at leaſt, the Fund whereof ought to be the Penalties exacted of Delinquents, and Scandalous Perſons by the Civil Magiſtrate, and by him delivered to the Kirk-Seſſions. But if that Fail, then the Kirk-Boxes in theſe Preſbyteries are to be proportionally Stinted by them according to the Number of Communicants in each Pariſh, which Maintenance of an Hundred Pounds is to be Collected by the Moderator, of the which the ſeveral Synods are to take Account, and their Books are to bear the Report thereof to the General-Aſſembly. It is alſo Appointed that the Abode of Burſars at Schools of Divinity exceed not Four Years. *Vide* Act of Aſſembly, *Feb.* 7. 1645.

Qualifications of Burſars, and how they are to be Tryed. § 14. By the ſame Act, Burſars of Theologie are Appointed to bring with them Yearly from the Univerſities, Teſtimonials of their Good Behaviour and Proficiency: And that none be choſen for Burſars by Preſbyteries, but ſuch

as

as are of Good Report, and have paſt their Courſe of Philoſophy, and their Qualifications are to be Tryed likeways before they go to Univerſities, conform to *Acts* of *Aſſemblies* 1647, 48, & 49. And by the 5th *Act* of *Aſſembly* 1705. It is Ordained, That in no Pariſh the Miniſter Recommend Youth to be Taught in *Latine* upon Charity in any *Grammar-School*, but ſuch as be Dexterous in Reading, and can Write, and ſuch as he judges to be of Virtuous Inclinations, which Tryal is to be in preſence of ſome Elders, and no *School-Maſters* is to Teach any upon Charity, but upon ſuch Recommendations. *Item*, It is Ordained that Preſbyteries appoint a Committee of their Number Yearly to Examine *Poor* Schollars in *Grammar-Schools*, that ſo none of them be ſuffered to proceed to Colledges with an Eye to Burſaries, but ſuch as are of Good Behaviour, and *Proficients* in the *Latine* : And Miniſters are to Recommend none to Burſaries not ſo Qualified : And Maſters of Colledges are to Lauriate no Burſars, but upon clear Evidence of ſuffieient Learning and Good Behaviour after Strict Examination.

Poor Students tho' not Burſars, are to be inſpected by Presbyteries.

§ 15. For the better Breeding of Young Men to the Miniſtry, who are not Able to Maintain themſelves at Univerſities (nor perhapes find that Favour as to get Burſaries) Preſbyteries where ſuch reſide are Appointed to Direct their Studies. Act *June* 18. *Aſſem.* 1646.

Burſars having the Iriſh *Language Encouraged.*

§ 16. In Order to the Advancement and Increaſe of the Knowledge of GOD in the *High-lands*, by the *Act* of *Aſſembly* 1701. It is Recommended to ſeveral Synods to Maintain a Burſar of Theology, having the *Iriſh* Language, out of their own Purſes. And by the 13th *Act* of *Aſſembly* 1704. In reſpect the *Low-land* Preſbyteries by-ſouth *Tay* are Competently Planted, and that the promoting of Knowledge in the *High-lands* is of Common Concern : Therefore it is Appointed that the one half of all Burſaries of the *Preſbyteries* by-ſouth *Tay* be beſtowed on

Students having the *Iriſh*, at leaſt the Half thereof; Which *Act* is to continue at leaſt for Four Years, and longer, if there ſhall be found need: And by the 5th *Act* of *Aſſembly* 1707. Contributions, and Erecting of Societies for Maintaining poor Scholars, are to be Encouraged by Judicatories and the Commiſſions of Aſſemblies.

None muſt leap over the Greek *Claſs, but finiſh the four Years Courſe before Degrees.*

§ 17. By the Act of Aſſembly *Feb.* 7th 1645. It is Appointed, that notwithſtanding of any Progreſs, any may pretend to have made privately in their Studies, Yet in the Colledge they ſhall not at firſt enter to any higher Claſs than that wherein the *Greek* Language is taught, and being entred, they ſhall proceed Orderly through the reſt of the Claſſes, until they finiſh the Ordinary Courſe of Four Years; And otherways that none be admitted to the Degree of Maſter of Arts, unleſs the Faculty of Arts find him to be of Extraordinary Learning.

Nor doth any advance to an higher Claſs, till his profiting in the lower does appear.

§ 18. By that ſame Act it is Appointed, That none be allowed to enter the *Greek* Claſs, but ſuch who are found can make Congruous *Themes* in *Latine*, and are not to be promoted to an higher Claſs, till it be found that they underſtand what was taught them in the Lower. The Annual Examination of Students at the firſt ſitting down of Colleges, looketh as if ſomething like this were intended: But the beſt Effects that ſuch Examinations do ordinarly now produce, may be the doing of Juſtice upon ſome poor Ignorant Students in keeping them back from advancing to Higher Claſſes. And as for the Reſt who pay the Maſters their Ordinary Dues, they are only thereby Excited to be at More than Ordinary Pains for ſome few Days. It is a piece of Juſtice done to the World, that thoſe who are to Gain and Live by their Learning, ſhould not, under that pretence, be ſuffered to impoſe upon Men by Ignorance or Craft. For, what a great deal of Hurt are Immoral, Ignorant, Crafty and Idle Scholars capable to work in their Generations? Let them be Directed and Obliged

Obliged to ſerve their Time in ſome Honeſt Vocation, wherere the want of ſo much Knowledge cannot do ſo great prejudice; Otherways, it is highly Reaſonable they ſhould Study to have Accompliſhments, and a Converſation ſuitable to the Profeſſion and Character they bear in the World.

Such as remove to other Colleges, muſt carry Teſtimonials with them.

§ 19. By that ſame Act, none who have entered to one College ſhould be admitted to any Claſs in another, than that wherein he was, or ſhould have been in the College from whence he came; Nor be admitted without Teſtimonials from the former Maſters, both concerning his Literature and dutiful Behaviour; that ſo theſe who have been Rejected or Removed as Unworthy or Ignorant by one College, may notbe Admitted or Promoted in another. And in order to the better Education of Young Men for the Miniſtry, By the 22d *Act* of *Aſſembly* 1696. It is Recommended to Profeſſors of Divinity that they Require of ſuch Students, as they Imploy in any Exerciſes, Teſtimonials from Univerſities where they have Studied, and the Places where they have Lived.

Who are to be imployed by Profeſſors in Theological Exerciſes.

Univerſities muſt Inſtruct on the Sabbath Day.

§ 20. By the Act of Aſſembly *Auguſt ult.* 1647. It is Recommended to Univerſities to take an Account of all their Scholars on the Sabbath Day, of the Sermons, and of their Leſſons on the Catechiſm.

TITLE V.

Of School-Maſters, and Inſtructors of Youth.

Qualifications of ſuch as bear Office in Schools by Acts of Parliament, and Aſſembly.

§ 1. BY the 17th Act of K. *W.* and Q. *Ma.* Parliament, It is Ordained, that noProfeſſors, Principals, Regents, Maſters or others, bearing Office in any Univerſitie, College

ledge, or School, within this Kingdom, be either admitted or allowed to continue in the Exercise of their said Functions, but such as do acknowledge and profess, and shall subscribe to the Confession of Faith, and swear the Oath of Alledgeance (and now they must subscribe the same with the Assurance, *vide 6 Act Parl.* 1693.) and withal shall be found of a Pious, Loyal, and Peaceable Conversation, and of good and sufficient Literature and Abilities for their respective Imployments, and submitting unto the Government of the Church now settled by Law. And by the 10*th* Act of Assembly 1700. all Presbyteries are appointed to take special, particular and exact Notice of all School-Masters, Chaplains, Governours, and Pedagogues of Youth within their respective Bounds, and oblige them to subscribe the Confession of Faith, and in case of continued Negligence (after Admonition) Errour or Immorality, or not being careful to Educate these under their Charge in the Protestant Reformed Religion; The *P*resbytery with respect to School-Masters, is to apply to the Civil Magistrates of Burghs, and Heretors in Land-ward: And with respect to Governours, Chaplains and *P*edagogues, to their Masters, for removing such persons from these Offices: And if this be not Remedyed by them, that the *P*resbytery with respect to School-Masters, apply to the Commission of *P*arliament for Visitation of Schools and Colleges: And it is appointed, that an Account be given in every half Year to the *P*resbytery, by Ministers, what School-Masters, Chaplains, Governours and *P*edagogues are in their respective Parishes. And by the 13*th* Act of Assembly 1706. such as have power of settling School-Masters, are to preferr thereto Men who have past their Course at Colleges, and have taken their Degrees, before others who have not, *Cæteris Paribus*.

The Work of a Land-ward School-Master.

§ 2. By the Act of Assembly *December* 17, 18. 1638, Presbyteries are to see that Schools in Land-ward Parishes be settled with able Men, for the Charge of Teaching the Youth,

Youth, publick Reading and Precenting of the Pſalm, and the Catechizing of the common People. Which Teaching of the Youth I underſtand to be, Teaching to Read, Write, and know the Principles of Religion, according to the Act of Aſſembly *Auguſt* 3. 1642, and by that ſame Act every Presbytery Seat and Burgh is to have a *Grammar School.*

TITLE VI.

Of Doctors, and Profeſſors of Theologie.

§ 1. ACcording to the fifth Chapter of the Policy of the Kirk in the General Aſſembly 1581. the Office of the Doctor or Catechizer, is one of the two ordinary and perpetual Functions that Travel in the Word. He is to open up the Mind of the Spirit of God ſimply, without ſuch Applications as the Miniſters uſe: They are ſuch properly who teach in Schools, Colleges, or Univerſities. But to preach unto the People, to adminiſter the Sacraments, and to celebrate Marriage, do not pertain to him, except he be Called and ordained thereto. If the Paſtor be qualified for it, he may perform all the parts of the Doctor's Office, that being included in the Paſtoral. By the 2*d Article Cap.* 11. of the Diſcipline of the *French* Church, a Doctor in the Church cannot preach nor adminiſter the Sacraments, unleſs he be both Doctor and Miniſter. And when the General Aſſembly *February* 10. 1645. ratifies the Propoſitions ſent to them from the Aſſembly of Divines at *Weſtminſter*, concerning Church Government, and Ordination of Miniſters. They expreſly provide, that the preſent Ratification ſhall be no-

The Sentiments of this Church about the Doctor's Office. He is no Paſtor as ſuch.

ways

ways prejudicial to the further Diſcuſſion and Examination of one of the Articles or Propoſitions, which holds forth, that the Doctor or Teacher hath power of the Adminiſtration of Sacraments, as well as the Paſtor.

Catechiſts, or Doctors, ſhould Teach in Colleges and in large Pariſhes.

§ 2. Though the Office of a *Deacon* is included in the Office of a Ruling Elder, yet it is fit that ſome be appointed Deacons, diſtinct from that of the Elder: So, albeit the Office of a Doctor be included in that of the Paſtor, yet it were very fit that ſome not in the Sacred Order of the Miniſtery were ordained and ſet apart to Teach and Catechize the People, eſpecially in large and incommodious Pariſhes, (See § 3. of the preceeding Title) as well as in Schools and Colleges.

Synods are to report to the Aſſembly the Names of Scholars fit to be Profeſſors. No Paſtor can be compell'd to give himſelf to teaching & leave his Paſtoral Charge.

§ 3. By the Act of Aſſembly *February* 13. 1645. for encouragement to Scholars for Profeſſions in Schools, it is recommended to Synods, to try who within their Bounds, moſt probably may be for a Profeſſion in the Schools, and report their Names to the General Aſſembly, that they may be ſtirred up, and encouraged by them to frame their Studies for ſuch Places. This Cumulative Power doth noways prejudge or hinder the Faculty of an Univerſity (which hath Power and Right to Elect) from doing of the ſame. It were to be wiſhed, that this Cuſtom of Synods reporting to General Aſſemblies the Names of ſuch as are fit to be Profeſſors, were again Revived, and more exactly practiſed: For it would prevent the Tranſporting of Miniſters to be only Teachers or Maſters in Univerſities, which is an Appointing of him to exerciſe the Office of a Doctor, and diſpenſing with him from preaching of the Word and adminiſtrating of the Sacraments: Which Diſpenſation, or the looſing of which Tye, if it be a Favour, it can never be impoſed upon any Paſtor without his own Conſent; But if it be a Puniſhment, it can be inflicted upon none without their Fault. It is liker a Commutation of Offices than a Tranſportation: Or if he ſtill continue to be a Paſtor, his

Paſtoral

Paſtoral Talent is thereby but much hid in a Napkine; By the 3*d Article* 2*d Chap.* of the *French* Church Diſcipline, Doctors and Profeſſors of Divinity ſhall be Elected and Tryed by the Synods of the Province where the Academies are.

§ 4. By the 5*th Chap.* of the Policy of the Kirk of *Scotland*, the Doctor being an Elder is to aſſiſt the Paſtor in the Government of the Kirk. And by the Act of Aſſembly *Auguſt* 4. 1643. Profeſſors of Theology cannot be elected Commiſſioners to General Aſſemblies, except they be Miniſters: So that, as Doctors they are not Ruling Elders, and the Aſſembly conſiſts of none but Paſtors and Elders: Therefore as Doctors they cannot be Members of Church Judicatories for Government and Ruling, *vide* §. 1. *Huj. Tit.*

The Doctor as ſuch no Ruling Elder, nor as meer Doctor, can be Member of Aſſemblies.

§. 5. By the Act of Aſſembly *June* 18. 1646. Profeſſors of Divinity are deſired to preſent their Dictates to the next General Aſſembly: But they declin'd at that time to make any Act about it for the future, till further Conſideration.

Profeſſors Dictates may be reviewed by General Aſſemblies.

TITLE VII.

Of Ruling Elders.

§ 1. HE is called a Ruling Elder, becauſe to Rule and Govern the Church is the chief part of his Charge and Imployment therein; And albeit he may act as a Deacon, yet his principal Buſineſs is to Rule well, and it belongs not to him to Preach or Teach.

Why called Ruling Elder.

Election of Elders. § 2. If there be a total Vacancy of Miniſters and Elders in a Pariſh, the Presbytery ſhould intimate to the Heads of Families, to meet with ſome of their Number on an appointed Day, and then name Elders. But if the Maſters of Families do not keep the Appointment, then the Preſbytery are to nominate and chooſe the Perſons to be Elders. In caſe the Vacancy be not Total, then the Miniſter and Elders do chooſe ſuch as ſhould be added to their own Number from among the Heads of Families, and the fitteſt and moſt experienced of them may be ſuppoſed to be among the Deacons, *vid.* Aſſembly *Auguſt* 1. 1642.

Their Tryal. § 3. The Tryal is to be by the Miniſter and Elderſhip of the Congregation; Or, in caſe of the want of theſe, by the Presbytery, and they are to be tryed both with reſpect to their Converſation, and alſo of their Knowledge in the Principles of Religion, and their Ability and Prudence for Government.

Serving of their Edict. § 4. Before Ordination of Elders, the Names of the Perſons Nominated and Tryed, in Order thereto, are to be publickly Intimate to the Congregation; Whereby all are Required, in caſe of their having any Objection, that is Relevant and True againſt their Ordination, to Repreſent the ſame to the Kirk-Seſſion.

Ordination of Elders. § 5. Their Ordination is to be by the Miniſter of the Congregation; Or, by one from the Preſbytery in the Caſe above-ſupppoſed, in preſence of the Congregation, upon a Lord's Day after Sermon is ended in the Fore-noon: At which time, the Miniſter calling upon the Perſons choſen to be Elders, they are to be Interrogat concerning their Orthodoxie, and to be taken Solemnly Engaged, to Adhere to, and Maintain the Doctrine, Worſhip, Diſcipline and Government of the Church; And to lay themſelves forth, by their Office and Example, to ſuppreſs Vice, cheriſh Piety, and exerce Diſcipline Faithfully and Diligently. Then the Elders choſen, ſtill ſtanding up, the Miniſter is next,

by

by ſolemn Prayer, to ſet them apart, *in verbis de præſenti.* After Prayer the Miniſter is to exhort both Elders and People to their reſpective Duties.

Their Admiſſion.

§ 6. In caſe an Elder change his Reſidence by removing into another Congregation, if the Seſſion, upon a ſavory Report concerning him, ſhall think fit to add him to their Number; Then, if he be content to accept, his Edict is to be Served, and he is thereafter admitted into the Seſſion, his Qualifications having been tryed already in the Congregation where he was Ordained.

Duties of Elders more private.

§ 7. As the Paſtors and Doctors ſhould be diligent in Teaching, and ſowing the Word of God, ſo the Elders ſhould be careful, in ſeeking after the Fruit thereof among Peoples Lives. They are to aſſiſt the Paſtor in the Examination of them that come to the Lord's Table, and in viſiting the Sick. They ſhould cauſe the Acts of Aſſemblies to be Obeyed. They ſhould be diligent in admoniſhing all Men of their Duty, according to the Rules of the Evangel. And things that they connot correct by private Admonition, they ſhould bring to the Elderſhip. See *The Heads of the Policy of the Kirk.*

They have particular Bounds of the Pariſh (called Quarters in Scotland) aſſigned them to viſit Montnly, and Report.

§ 8. By the Eccleſiaſtick Remedies againſt Profaneneſs, enacted in the Aſſembly *Auguſt* 10. 1648. it is appointed, that every Elder have a certain Bounds aſſigned him, that he may viſit the ſame, every Month at leaſt, and to report to the Seſſion what Scandals and Abuſes are therein, or what Perſons have entered without Teſtimonials: And it were fit, that then ſome time were ſet apart for Prayer; And it were alſo fit that Elders ſhould always keep an exact Liſt of all examinable Perſons within their *Quarters*, and thereunto put Marks to diſtinguiſh Communicants from the Ignorant and Scandalous, and the Poor and Indigent from ſuch as need not.

Their more publick Duties, yet restricted.

§ 9. The Duties of Elders which are more publick are these which ly upon them in the Assemblies of the Church; In which, Ruling Elders have Right to Reason and Vote in all Matters coming before them, even as Ministers have: For to General Assemblies, their Commissions bear them to the same power with Pastors. Howbeit by the Practice of our Church, the Execution of some Decrees of the Church doth belong to the Pastors only; Such as, the Imposition of Hands, the pronouncing the Sentences of Excommunication and Absolution, the receiving of Penitents, the Intimation of Sentences and Censures about Ministers, and such like. In short, the Elder is to speak nothing to the Church from the Pulpit.

Number of Elders, and their Continuance.

§ 10. The Number of Elders in every Congregation is to be more or less according to the Number of People therein, and plenty of fit and qualified Persons for that Charge. And when they are once Lawfully called to the Office, they may not leave it again, while their Gifts and Abilities for discharging the same do continue. Albeit in some Congregations, such a Number of Elders may be chosen, so as one part of them may relieve another for a reasonable time, from the Burden and Exercise of their Office, as was done among the *Levites* under the Law. See the *Book of Policy*, *Chap.* 6.

TITLE VIII.

Of Deacons.

How the Word is taken; The Office described. The Session Censurable that wants them.

§ 1. THE word *Deacon* is sometimes largely taken for all that bear Office in the Ministery, and Spiritual Function in the Church: But commonly it is taken for that ordinary and perpetual Ecclesiastical Office in the Kirk of Christ, to whom the Collection and

and Distribution of the Alms of the Faithful, and Ecclesiastical Goods do belong. *Vid. Chap.* 8. *of the Policy of the Kirk.* Where it follows, that, seing this Office is of Divine Institution, it is an Unwarrantable Omission in some Congregations, that either they put no Difference betwixt Elders and Deacons, or else they Neglect to Appoint any to the Office of a Deacon. *Vide* § 2. *Tit.* 6. I do not think it Reasonable or very Consistent, for any to be Zealous against adding to the Kinds of Office-Bearers of CHRIST'S Appointment, while, they are Active in, or Connive at the Diminution of any of them. If it be said, the Elder is a Deacon : I Answer, Albeit the Pastor includes the Office of Doctor, Elder, and Deacon, Yet seing these are of Divine Institution, Reverence is in so far due unto it as to set up these distinct Offices : As nothing should be added to the Divine Institution, upon pretence of imagined *Decency* or *Order* in the Invention, so nothing ought to be Diminished therefrom, upon pretence that some Things in the Institution are needless or superfluous.

Their Election, &c. the same with Elders.

§ 2. As to what Respects the Election, Tryal, Ordination, Admission, Continuance, and Number of Deacons, the same Method may be used about them, as was done concerning Elders, *mutatis mutandis.*

Duties of Deacons.

§ 3. The Duties of Deacons may be reduced to these Heads, Collected from Mr. *Guthrie*'s Treatise of *Elders* and *Deacons*, and the Heads of the Policy of the Kirk. 1. That they take exact Notice of the Poor, and that they timeously make their Case known to the Session, to the End, their Straits may be Relieved, and so their breaking out into Begging may be prevented. 2. They are to Collect and Receive that Supply for the Poor, which the Members of that Congregation, or Strangers shall be inclined to Offer. 3. That the Money so Received be Faithfully Delivered to the Session, according to whose

Judgement

Judgement and Appointment, the Deacons are to Distribute the Church-Goods: In which Matters they have a Decisive Vote with the Elders: But in other Cases their Opinion is only Consultative, and they may be always present. 4. That they take Care of Orphans and Idiots, and such as want Knowledge and Ability to Dispose of, and order the Things that concern their Food and Raiment. 5. They are to take Care that what belongs to the Poor be not Dilapidated, or Misapplyed. 6. They are to acquaint the Ministers and Elders of the Sick within their Quarters, that so they may be Visited, and, if Need be, Supplied. 7. By the 9th *Chap.* of the *Policy* of the *Kirk*, Deacons were not only to Collect and Distribute the Ordinar Alms, but all the Church-Goods, Tiends, *&c.* and uplift and pay to the Ministers their Stipends. This were indeed a Work proper for their Office, an Ease to the Minister, and would prevent much Noise and Offence that is raised when Charges to make Payment are given, either at their own Instance, or in Name of their Assignie's or Factors. 8. They may be Imployed to provide the Elements, to carry them, and serve the Communicants at the LORDS Table.

TITLE IX.

Of Moderators of Church-Judicatories.

It is Convenient the Moderator be a Minister, his Work and Power.

§ 1. SEeing the Moderator is frequently called to Exercise the Power of Order, as Solemn publick Ecclesiastick Prayer, at least Twice every Session, to wit, at its first Opening, and then at its Closing; Authoritative Exhortation, Rebuke, Direction; it is Convenient the

the Moderator be always a Miniſter. But if any affect this Office, he ſhould be Oppoſed in his Ambitious Purpoſes. The Perſon choſen to be a Moderator would be of ſuch Abilities that he can Diſcharge the following Work, *viz.* He is to look on himſelf as the Mouth of the Meeting; He is to take on him Authority, yet looking on it as theirs, not his; He is to ſee all the Rules for Decency and Order, preſcribed by the Judicatorie, exactly kept and obſerved; He is to acquaint the Judicatorie of all the Affairs that ly before them, and may propoſe the moſt ſpeedie Method how to Diſpatch them; He is to keep the Members from Interrupting one another, and from ſpeaking among themſelves, or from directing their Diſcourſe to any other than to himſelf; He would likwiſe keep Members, in their ſpeaking, cloſs to the preſent Buſineſs; Any thing that is ſpoken Impertinentlie, he is calmlie to Reſent it, according to its Demerit, that greater Heats may be prevented and diverted. Laſtly, After the Matter hath been fully Reaſoned on all hands, then he is Briefly to Reſume the Subſtance of what hath been ſpoke, and thereupon ſtate the Vote, and put the Queſtion. If the Vote be Equally Carried, then the Moderator (who never Votes but in that Caſe) may caſt it: And if he be *non liquet*, then the Queſtion may be put again at ſome other time. The Moderator may likewiſe upon any extraordinary Emergent by his Circular Letters, Conveen Preſbyteries and Synods before their ordinary time of Meeting. So may the Moderator of the laſt General Aſſembly, Only they would be ſure to have ſufficient Ground, and ſo Cautions, as to have a Multitude of Counſellors to Warrand and Support their Adventure.

§ 2. Our Judicatories chooſe no Aſſeſſors to their Moderators, only he ordinarly prevails with, or invites the moſt Experienced to ſit near him, that he may have them ready to Direct and Adviſe him: And in Abſence of the preſent

No Aſſeſſors to our Moderators.

preſent Moderator, his Predeceſſor in that Chair Moderates: And in caſe of his Abſence, the Eldeſt Miniſter.

No conſtant Moderator, but in Kirk-Seſſions, the manner of their Election.

§ 3. There is no conſtant Moderator but in Kirk-Seſſions, where the Miniſter Moderates *ex officio*, and if there be Colleagues they Moderate by Turns. Every Preſbyterie, before they fall about Buſineſs, chooſe one of their Brethren to be Moderator, who continues for Six Moneths, from one provincial Synod to another: But the Moderators of Synods and Aſſemblies are changed at every new Synod and Aſſemblie. The manner of chooſing the Moderators of theſe Judicatories is this, A Liſt is propoſed by the former Moderator of Two or Three, which Liſt is ordinarly Approved, with the Addition of One or Two more; Out of which Liſt, the Candidates having firſt by Turns given their Voice and Removed, the Moderator is choſen by the Suffrages of the Miniſters and Elders, and ſet in the place of the former Moderator.

The Privilege of Members.

§ 4. It is the Privilege of all the Members of any free Judicatory, to propoſe a Vote and have it put to the Queſtion, provided it be Seconded by another Member, and that albeit both the *Moderator* and other *Members* ſhould Oppoſe the *Motion*.

TITLE X.

Of Clerks, Readers and Precentors.

A Clerk, his Election, Admiſſion, & Continuance.

§ 1. EVery Judicatorie of the Church is to have a Clerk of their own chooſing, to Record their Acts. They are, I think, as free Courts, as any Councils of Royal Burghs, on whom the Impoſing a Clerk, is declared to have been contrary to Law, by the *Meeting of*

Eſtates

Eſtates 1689. At his Admiſſion he is to give his Oath *de fideli*, and continues either during Pleaſure or Life as they pleaſe to make. But in caſe neither of theſe be clearly expreſt in his Act of Admiſſion, then it is to be underſtood only during Pleaſure, becauſe all Judicatories are ſtill ſuppoſed to retain their Liberty to Diſmiſs Servants when they will, unleſs a Surrender or Reſtriction of that Liberty be proven.

How far Extracts are probative.

§ 2. Acts and Deeds under Clerks hands are probative Writs, and the Warrants thereof are preſumed; Yet ſo as if they be Recently Quarrelled, the Warrants muſt be produced. No wiſe Clerk will give an Extract till the Minutes of that Diet have firſt been read. The Extracts prove what was done by the Judge, or what was ſaid or alledged by Parties, but they do not prove that the Things alledged were True, except in ſo far as the Inſtructions thereof are Expreſt. *Vide* Stair's *Inſtitut. Pag.* 688.

A Clerk is not to be Declined.

§ 3. Albeit Clerks be very near of Kin to Parties, Yet conſidering the Knowledge and Faithfulneſs, that in Charity is ſuppoſed to be in Church-Judicatories, it may be thought that they will rather Over-rule their Clerk, than he them: and therefore he cannot be Declined. In Inferiour Civil Courts, where frequently there is but one Judge, and it is known the Clerk doth commonly Excel him in Knowledge, in which caſe a Declinator ſhould be ſuſtained, and another Appointed to be Clerk to that Proceſs in his Place, who is of near Kin to the Party.

The firſt Riſe of Readers; they are now ceaſed.

§ 4. At the Beginning of the *Reformation* when there was ſuch a Scarcity of Miniſters, and few of the People could either Read themſelves, or had ever heard the Word of GOD publickly Read in their own Language; Our Reformers in the Year 1605, did appoint Men to Read the *Common Prayers* and *Scriptures* till theſe Churches ſhould be Furniſhed with Miniſters. But now, ſeing there is ſuch an Increaſe of Knowledge, and Plenty of Teachers,

there is no publick Reading of the Word, except by such as are Licens'd, or Ordained to Preach it, and can help the Hearers to Understand the Meaning thereof.

Precentors their Office.

§ 5. Precentors, or Chanters are they who Begin and Order the Tune of the *Psalm* that is to be Sung, and thereby direct the Churches Musick: By the Vulgar sort they are yet called Readers, tho' Improperly. They are in most Congregations Clerks to the Church-Sessions. *Vid. Lib.* 2. *Tit. of Singing of Psalms.*

Beddals their Office & Qualifications.

§ 6. Beddals, or Beadles, are by our Judicatories called Officers: They are to the Church what the *Apparitores* were to Civil Courts, *viz. Magistratuum Ministri, qui eorum jussa exequuntur*, so called, *quia præstò sunt, obsequuntur*q; *Magistratibus.* At their Admission they give their Oath *de fideli*, because their Executions bear Faith. They should be Persons of a Blameless Life, and well Affected to the Church Establishment, who will not Discover the Secrets of the Judicatory, and they should also be such as can Read and Write.

TITLE XI.

Of Church-Sessions.

No Minister must Usurp over the Session.

§ 1. ALbeit in a Session the Minister is Moderator *ex officio*, as hath been said, Yet he hath by Right, no more Power thereby than the Moderators of other Church Judicatories. *See* the Act of the General Assembly *Decem.* 17th 1638. *Anent Voicing in Kirk-Sessions*, Ministers Moderating therein, are not to Usurp a Negative Voice over the Members of his Session, and where there are two or more Ministers in one Congregation,

tion, that they have Equal Power in Voicing, that one of them hinder not the Reaſoning or Voicing of any thing, being agreeable to the Acts and Practice of the Kirk. And even in that Caſe, Voicing and Reaſoning upon any Subject can never be hindered, it being inconſiſtent with the Liberty of a Free Court to be Impeded or Compelled. But the Debate may perhaps furniſh Ground for a Proteſtation or Appeal. *Vide* § 6. *Tit.* 8.

Conſtituents of a Seſſion, and Time of their Meeting.

§ 2. The Kirk-Seſſion conſiſts of one or moe Miniſters, and of the Elders of the Congregation, and it is moſt convenient they *M*eet weekly on a Week Day after Sermon: For on the Sabbath, *M*atters of Civil Right, ſuch as Diſcharging of Eleemoſyner's Intromiſſions, ſecuring of *M*oney, or ordering of Diligence for recovering the ſame, ought not to be Treated or Concerted by any *M*an, and far leſs by Church Guides, whoſe Office it is to check that Profanity in others. The Deacons are always preſent, not for Diſcipline, but for what relates to their own Office. Ignorant and Scandalous Perſons are to be put off, and kept off from Kirk-Seſſions. *See* Act of Aſſembly, *Aug.* 10th 1648.

Matters treated by them.

§ 3. The *M*atters treated by them, are what concern Church Diſcipline, and the Worſhip of GOD in that Congregation, as, what Days of the Week are meeteſt for Aſſembling to publick Worſhip, and what Hour on the LORDS Day before and after Noon; When it is Seaſonable for Parochial Faſts and Thankſ-givings, what Times are fitteſt for Catechiſing and Viſiting of Families: How often, and when the LORD'S Supper is to be Celebrated; They are likeways to Enquire into the Knowledge and Spiritual State of the Members of the Congregation, whom they are to Admoniſh or Encourage as they ſee Cauſe, and to Exclude from the LORD'S Table all who are found Ignorant or Scandalous.

According to what Rule.

§ 4. In the Ordering of all which *M*atters, nothing is to be done by them, but what is according to the ſettled Order and Practice of this Church: And if there be any new or difficult Emergent that cauſeth Doubting or Heſitation, The *M*atter is to be Referred to the Preſbytery, for their Direction and Authority.

Secret Confeſſions not to be propal'd, except in what Caſes.

§ 5. By the 5th *Chap.* 28 and 30 Articles of the *French* Church Diſcipline, Conſiſtories ſhall not give Certificates to *M*agiſtrates by Act or otherways, nor ſhall particular *M*embers of Conſiſtories Diſcover unto any the Confeſſions of Penitents, which voluntarly, or by Admonitions given them, ſhall have Confeſſed their Faults unto them, except it be in the Caſe of Treaſon. And as for Crimes which ſhall be Diſcloſed to Miniſters by thoſe who deſire Counſel and Conſolation, they are Enjoyned not to Reveal them to *M*agiſtrates, fearing leſt Blame ſhould be drawn on the Miniſtry, and Sinners for the future ſhould be Diſcouraged to come to Repentance, and make Confeſſion of their Faults, which ſhall ſtand Good in all Crimes Confeſſed, except it be Treaſon; It would be conſidered that none of the Reformed Churches of *France* had the Happineſs always to have thoſe of their own Religion to be their conſtant Judges; And the Reputation of the *Proteſtant* Religion was not Tenderly Treated, nor duely Regarded when Conſiſtorial Delations againſt their Brethren were made to *Popiſh* Judges, 1 *Cor.* 6. 1. *Dare any of you having a Matter againſt another, go to Law before the Unjuſt, and not before the Saints?* In theſe Times when the Churches Enemies have Power and Authority; But now when the Civil Judges own the ſame Way of GOD with the Church, what ſhould hinder them to Inform the *M*agiſtrate againſt Delinquents both to their and others Terrour.

§ 6. In

§ 6. In every Seſſion there ought to be twice in the Year privy Cenſures of the Members, Clerk and Beddal. The Miniſters undergoing their privy Cenſures in the Preſbytery, are not to undergo them before the Seſſion. In the managing of this Cenſure, the Members are one after another to be removed, and then the reſt of the Members declare what they have Obſerved concerning the Converſation of him removed, and of his Diligence and Prudence in his Station. It is to Remembred by all Church Judicatories at their privy Cenſures, that no Member Judicially delate another, unleſs ſecret Satisfaction hath been ſought and refuſed. After Elders, Deacons, Clerk and Beddal have paſt their Cenſure, each of them, as they are called in, is either to be Admoniſhed before all, or others Impowered to do it privately, or elſe they are to be encouraged as need requireth.

Privy Cenſures in Seſſions, and how to be managed.

§ 7. By the Act of Aſſembly *Auguſt* 19. 1639. The Books of Kirk Seſſions are to be preſented once a Year to the Presbytery, that they may be tryed by them; Or when there is a Viſitation of the Pariſh by the Presbyterie. Aſſembly *Auguſt.* 10. 1648.

Seſſion Books to be tryed by the Presbytery yearly.

§ 8. By the Act of Aſſembly *February* 12. 1645. It is Recommended to every Kirk-Seſſion to buy the printed Acts of the Aſſembly, and Presbyteries are Ordained to crave account hereof, and Synods are to crave account from Presbyteries. And it is added to this Act, by the 18 of the Aſſembly 1705. That the Agent for the Kirk in all time coming, after every Aſſembly, ſo ſoon as the Acts thereof ſhall be printed, Tranſmitt as many Copies of the ſame to every Presbytery as there be Pariſhes therein, and both Presbyteries and Seſſions are ordained at their firſt meeting after receiving the ſaid Acts to cauſe read ſo many of them as are of publick Concern, in order to their Obſerving thereof. And all this to be upon the Charges of the ſeveral presbyteries and Seſſions.

Each Seſſion is to have the Acts of Aſſembly read, and to obſerve them.

§ 9. By

The Church-Session is sufficient alone for Reformation of Manners in a Parish, having the Magistrates Concurrence.

§ 9. By the 4*th* Article of the fifth *Chap.* of the *French* Church Discipline, it shall not be permitted to establish other Council for any Church Business whatsoever, and if in any other Church, there shall any other Council be established, different from the *Consistory*, it shall forth-with be suppressed; Nevertheless, the *Consistory* may sometimes call to its Aid such of the Church as shall be thought convenient, and that Ecclesiastical Matters be treated of only in the place where the *Consistory* doth assemble. They have lately erected in *England* Societies for Reformation of Manners, not without some seeming Success against Vice and Immorality, which is Commendable and Requisite there, until the Discipline and Government of their Church be more Pure, and better Reformed. But for the Church of *Scotland*, as now established, to imitate that Example, beside that it might become an Introduction to Innovations, it would resemble a vain Youth his bringing wide sleev'd Coats in fashion, because some Persons of Quality, who had a Distemper in their Arms, were necessitated to cause make them wide for their own Ease. The Author of *The Stage condemn'd, page* 45. proves Stage-plays to be condemn'd in Scripture by this Argument, That which God hath appointed sufficient Means to accomplish, it is unlawful for Men to appoint other Means to accomplish it. But God hath appointed sufficient Means for recommending Vertue and discountenancing Vice without the Stage: *Ergo*, It is unlawful for Men to appoint the Stage for recommending Vertue and discountenancing Vice. And the same Argument, *mutatis mutandis*, militates against these new *Lay-Societies* for Reformation of Manners in the Church.

TITLE XII.

Of Presbyteries.

§ 1. THIS Judicatory consists of all the Pastors within the Bounds, and one Ruling Elder from each Parish therein who receives a Commission from the Eldership to be a Member of the Presbytery, and represent them there till the next Synod be over; Thus twice a Year there are new Elections of the Ruling Elders. The Number of Parishes associated in Presbyteries for their mutual Help, is determined by Authority of the National Synod, *December* 17, 18. 1638. *Art.* 8. as the Adjacency of the Congregations, and the Easiness of Travelling doth best allow. Where there are Collegiate Ministers, that Session may send as many Ruling Elders. The Directory for Government saith, That, to perform any Classical Act of Government or Ordination, there shall be present, at least, a Major part of the Ministers of the whole *Classis*. Presbyteries should meet every third Week, and oftner if Business require it; But of this see § 3. *h. t.* *The Constituents of a Presbytery, their* Quorum, *and time of Meeting.*

§ 2. Every Meeting of a Presbytery is to begin with a Sermon by one of the Brethren appointed formerly for that Effect, upon a Text assigned him by them, except when Probationers or Intrants supply the Pulpit in their publick Tryals. The half of the Time allowed for this Presbyterial Exercise is to be taken up in the Explicatory and Analytick Part of the Text, and in answering Textual and Critical Questions and Difficulties; This part of the Work is called *Making*, & requires more especially the Gift of the Doctor. The other half of the time allowed is to be taken up in *Presbyterial Exercises and Common Head.*

in raiſing of Doctrines and Obſervations from the Text, and applying them in their ſeveral Uſes, which laſt part is called *Adding*, and it requires more eſpecially the Gift and neceſſarily the Authority of the Paſtor. After the Exerciſe is over, and the Preſbytery conſtitute, the Cenſure of the Exerciſe they have heard uſeth always to be their firſt Work which may be done before them who had the Exerciſe. Beſide this the Brethren of the Preſbytery by the Act of Aſſembly *December* 17, 18. 1638. are to have ſome common Head of Doctrine publickly diſputed in the Preſbytery among the Brethren, every firſt Presbytery of the Month, according to the Act of Aſſembly holden at *Dundee* 1598. *Seſſ.* 12.

Abſents to be Cenſured.

§ 3. By the foreſaid Act 1638. Preſbyterial Meetings are to be Weekly, except in places far diſtant, who between the firſt of *October* and firſt of *April*, are diſpenſed with for Meeting once in the fourteen Days, *vide* § 1. *H.T.* Likeways that Act appoints all Abſents to be cenſured, eſpecially thoſe that ſhould Exerciſe and Add, according to the Act of Aſſembly 1582 *April* 24.

Matters treated of in Presbyteries.

§ 4. The Preſbytery treats of ſuch Matters as concern the particular Churches within their Bounds, as, the Examination, Admiſſion, Ordination, and Cenſuring of Miniſters; The Licenſing of Probationers, Rebuking of groſs or contumacious Sinners; The directing of the Cenſure of Excommunication; The Cognoſcing upon References and Appeals from Kirk Seſſions; The Reviſing and Rectifying what hath been ill done or negligently omitted by them, at their approving of the Kirk-Seſſion Books and Records; The anſwering of Queſtions, Caſes of Conſcience, and ſolving of Difficulties in Doctrine or Diſcipline, with Petitions from their own or thoſe in other Preſbyteries; The Examining and Cenſuring according to the Word of God, any erroneous Doctrine, which hath been publickly or more privately vented within their Bounds, and the endeavouring the Re-

Reducing and Converſion of any that remain in Errour and Schiſm; The appointing of Viſitation of Churches by themſelves as Occaſion offers, or the Perambulation of Pariſhes in Order to their Uniting or Diſjoyning; All which are either concluded or continued to further Conſideration, or referr'd to the Synod.

Proceſſes which begin but cannot be determined by the Seſſion, but referr'd to the Presbytery, as the Judges Competent.

§ 5. By the *6th Chap.* 11 *Act* of *Aſſemb.* 1707. there are ſome Proceſſes which natively begin at the Kirk-Seſſion, which for the Atrocity of the Scandal, or Difficulty in the Affair, or general Concern; The Seſſion having frequent Meetings of the Preſbytery to have Recourſe unto, do not determine of themſelves, ſuch as Scandals of Inceſt, Adultery, Trilapſe in Fornication, Murder, Atheiſm, Idolatry, Witch-craft, Charming, Hereſy and Errour vented and made publick by any in the Congregation, Schiſm and Separation from the publick Ordinances, Proceſſes in Order to the higheſt Cenſure, and continued Contumacy. But Proceſſes for all ſuch Crimes and Scandals, are to be referr'd to the Preſbytery, by an Extract of their Procedure thereanent. And when there is no Confeſſion of the Scandals above-mentioned, the Seſſion is not ſo much as to proceed to lead Probation by Witneſſes or Preſumptions, till they be Authorized thereto by the Preſbyteries Anſwer to their Reference foreſaid.

When the Seſſion may cite a perſon to the Presbytery.

§ 6. When the Proceſs is ſo clear, as in the caſe of a Judicial Confeſſion, then the Kirk-Seſſion may ſummond the Delinquent when before them *Apud Acta*, to compear before the Preſbytery: But where there is any Difficulty, they ſhould firſt inform the Preſbytery, and get their Allowance before the Party be ſummoned before them.

Seſſions cannot abſolve from ſuch Scandals without the Presbytery.

§ 7. When perſons cenſured for theſe groſſer Scandals do apply to the Kirk-Seſſion for Relaxation, they may both be privately conferr'd with, and likeways their Acknowledgements heard before the Seſſion, but they ought not to be brought before the Congregation, in Order to their Abſolu-

tion, nor Abſolved but by Direction and Order of the Preſbytery.

Correſpondence of Presbyteries.

§ 8. Preſbyteries in ſome Caſes may ſend Commiſſioners to other Presyteries, either to Adviſe them, or to ſeek Advice from them. By Act of Aſſembly *June* 18. 1646. It is Recommended, that a Correſpondence be kept among Preſbyteries conſtantly by Letters, whereby they may be mutually aſſiſting to each other.

Privy Cenſures in Presbyteries, their Seaſon upon Days of Prayer.

§ 9. In every Presbytery, at leaſt twice a Year, on Days for Prayer, as ſhould be done in Seſſions likeways, before each Synod, there ought to be privy Cenſures, whereby each Miniſter is removed by Courſe, and then Enquiry is made at the Paſtors and Elders, if there be any known Scandal, Fault, or Negligence in him, that it may be in a Brotherly Manner Cenſured; After the Miniſters, the Preſbytery Clerk is to paſs theſe Cenſures likeways. By the *6th* Article of the *7th* Chapter of the *French* Church Diſcipline, at the end of the Colloquies, Amicable and Brotherly Cenſures ſhall be made, as well by the Paſtors as by the Elders, which ſhall be there preſent, of all things which ſhall be thought fit to Repreſent unto them.

TITLE XIII.

Of Parochial Viſitations by the Preſbytery.

Viſitations Occaſional or Ordinary.

§ 1. PARISHES are viſited by Preſbyteries, either Occaſionally, *pro re nata*, according to the weight of the Emergent which doth require the Viſitation, or Ordinarly and in Courſe, whereby every Congregational Church is viſited once a Year *Aſſem.* 1638. *Seſſ.* 23, 24. *Art.* 3. At leaſt this Ordinary Viſitation ſhould be going round all the Pariſhes in Order till they be Viſited, before others be Reviſited in Ordinary: For by the *16th Act* of *Aſſem.* 1706. Preſbyterial Viſitations of Pariſhes are to be frequent.

§ 2. The

§ 2. The Preſbytery is to cauſe Intimation to be made of their appointed Day for the Viſitation of that Pariſh, by a Brother of another Congregation, from the Pulpit, immediately after the Fore-noons Sermon, on the Sabbath, ten Days preceeding the Day for the Viſitation, requiring the Miniſter of the Pariſh to preach at that Time and Place on his ordinary Text, and ſummoning the Heretors, Elders, and whole Congregation, to be preſent that Day to hear Sermon; And thereafter, that the Miniſter, Heretors, Elders, and Heads of Families, do atttend the Preſbytery, to acquaint them with the State of that Kirk and Congregation in every Point, and if any of them have certain Knowledge of any thing amiſs in their Miniſter, Elders, Deacons, Precenter, Seſſion-Clerk, School-Maſter, or Beddal, that they do then acquaint the Preſbytery therewith. *How the Day for the Viſitation is to be Intimated.*

§ 3. The Seſſion Regiſters, together with a Catalogue of the Miniſters Books, are to be produced to the Preſbytery, before the Viſitation, and given to two of the fitteſt Brethren, and beſt acquainted with that Miniſter and People, to be Seen and Reviſed, and they to Report at the Viſitation. *The Miniſter's Library, and Seſſion Regiſter to be ſeen and Reviſed.*

§ 4. Sermon being ended, and the Preſbytery conſtituted, the Miniſter's Doctrine he had in his Sermon, is firſt to be conſidered, as in the Preſbyterial Exerciſe. Then the Church Bible, Confeſſion of Faith, Acts of the General Aſſemblies, Acts and Proclamations againſt Profaneneſs, and other Acts and Papers relative to the Church, are all to be called for and produced before the Preſbytery. The Viſitors of the Seſſions Regiſters, and Miniſters Library are to make their Report. The Preſbytery at the Entry on the Viſitation having removed the Miniſter, are to cauſe read over their Actings at the laſt Viſitation, and ſee if what was then Recommended or Ordered hath been made Effectual, and take the Excuſes of abſent Elders and Deacons there-from, and if need be, to call in any Party for Information: If *Preliminaries to the Viſitation. And how the Elders are to be Interrogate.*

nothing ariſe from that, to divert the Presbytery from the Orderly Method, all Parties being removed, the Presbytery is to call in the Seſſion *viciſſim*, and to enquire them concerning their Miniſter; Yea further, by the Act of Aſſembly *June* 13. 1646. at Viſitation of Kirks, the Elders, one by one, the reſt being removed, are to be called in, and Examined upon Oath concerning the Miniſter's Behaviour.

Miniſters Families to be Interrogate concerning their Lives.

§ 5. By the Act of Aſſembly 1596. Ratified *December* 17, 18. 1638. at Viſitation of Kirks, the Families of Miniſters are to give an Account, and to be tryed concerning the good Order and Behaviour that they obſerve within their Families, and ſuch as are found Neglectors of Family Worſhip, or Inſtructing of all in their Families, or ſuch as remove not thoſe who are Offenſive therefrom, ſhall after due Admonition be judged unfit to Rule the Houſe of God: For he ought to be one that Ruleth well his own Houſe, 1 *Tim.* 3. 4.

Church-Seſſion Interrogate concerning their Paſtor.

§ 6. The Queſtions to be enquired by a Presbytery at the Elderſhip concerning a Miniſter may be theſe and ſuch like. 1. Hath your Miniſter a Goſpel Walk and Converſation before the People? And doth he keep Family-Worſhip? And is he one who Rules well his own Houſe? Is he a Haunter of Ale-houſes and Taverns? Is he a Dancer, Carder or Dicer? Is he *P*roud or Vain-glorious? Is he Greedy, or Worldly, or an Uſurer? Is he Contentious, a Brawler, Fighter, or Striker? Is he a Swearer of ſmall or minced Oaths? Uſeth he to ſay, *Before God it is ſo*, or in his common Conference, *I proteſt*, or, *I proteſt before God*? Or, ſays he, *Lord what is that*, all which are more than *Yea* and *Nay*? Is he a filthie Speaker or Jeſter? Bears he familiar Companie with Diſaffected *P*rophane or Scandalous *P*erſons? Is he Diſſolute, Prodigal, Light, or Looſe in his Carriage, Apparel, or Words? How ſpends he the Sabbath after Sermon? Saw ye him ever drink Healths? Is he at Variance

Variance with any? Is there any that Reproaches him? Or, is he well Beloved of all? And upon what Ground is it that the Variance or Good-liking of the People is? 2. Keeps he much at Home at his Miniſterial Work? Or, doth he occaſion to himſelf Diſtractions, and unneceſſary Diverſions therefrom? Is he conſtant at his Calling and Studies, or takes he but pains at Fitts and Starts, ſuch as, at Faſts, Communions, Viſitations, *&c*? Is *Saturday* only his Book-day, or is he conſtantly at his Calling? 3. Doth he diſcountenance or diſcourage any that is ſeeking Chriſt? Doth he preach ſound Doctrine, ſo far as ye can underſtand? Doth he preach plainly, or is he hard to be underſtood for his Scholaſtick Terms, Matter or Manner of Preaching? Doth he faithfullie reprove Sin, eſpeciallie ſuch as moſt prevail in the Pariſh? What time of Day doth he ordinarlie begin Sermon on the Sabbath? And when doth he diſmiſs the People? Spends he too much time in his Sermon in Repetition of what he had before? Doth he Lecture and Preach in the Fore-noon, and Preach again in the After-noon on the Lord's Day, and that both Summer and Winter? Doth he read a large Portion of Scripture in pnblick, and Expound the ſame? Doth he preach Catechetick Doctrine ordinarly in the After-noon? Hath he a Week days Sermon, and Collections on theſe Days? When the Lord in His Providence is ſpeaking extraordinarie Things, doth he tye himſelf to his ordinarie Text, or makes he choice of one more appoſite and ſuteable to the Diſpenſation? Seeks he to preach Chriſt His Beautie and Excellencie, and to open up the Power and Life of Godlineſs? Endeavours he to diſcuſs Caſes of Conſcience, to let you know your Spiritual State, what it is? 4. Doth he according to the Act of Aſſemblie 1708 viſit the People and Families, at leaſt once a Year in a Miniſterial Way, Teaching and Admoniſhing from Houſe to Houſe? And doth he viſit the Sick when needful, and Pray over them?

Doth

Doth he Viſite them who through Age or Sickneſs cannot come to the Publick Worſhip? Doth he Labour to ſpeak to the Sick ſuitablie to their various inward Conditions? Doth he not eſpecially Viſite ſuch as be Exerciſed in Conſcience? Doth he Viſite ſuch as are Afflicted by Death of Children or other Relation? Viſites he the Widows, Orphans and Poor? If he be Miniſter of a Burgh, Viſits he the Priſoners? Is he not Careful when he Viſits Families to confer with them in private, and Pray with them, thereby Learning the Caſe of their Souls, that ſo the Doctrine in publick may the better meet with their Condition? 5*to.* Doth he Adminiſter the Sacrament of Baptiſm in an orderly way, when the Congregation is conveened, or doth he it at any time privately? Doth he add any Word to, or alter the Words of Inſtitution? 6*to.* Doth he frequently Catechize his Pariſhoners, and Adminiſter the Sacrament of the LORD's Supper to them? And is he careful in keeping from that Holy Ordinance, all who are known to be Scandalous, groſly Ignorant or Erroneous? How often have ye the Communion every Year? Doth he not begin to Catechize Young Ones about Nine or Ten Years of Age, and how Cenſures he Contemners of Catechizing? What Courſe is taken with Contemners of the LORD's Supper upon frivolous Pretences? At the LORD's Supper, doth he not cauſe Cut the Bread in large & fair Shaves fit for mutual Fraction and Diſtribution, that as they give the Cup to the neareſt Aſſident, ſo having broken off a part of the Bread with their hand for themſelves, they give the Reſt to the Perſon ſitting neareſt them? Do your People all ſit at the LORD's Table? In the time of Diſtribution, Eating and Drinking, is there any Reading, or Singing of *Pſalms*, or is there Silence, and ſo time for Meditation, except it be a ſhort pertinent and awakening Word dropped by the Paſtor? 7*timo.* Hath he a Competent Number of Elders? And hath he

Deacons

Deacons in the Pariſh diſtinct from Elders? Doth he keep Seſſional Meetings frequently? And is he Impartial in the Exerciſe of Diſcipline againſt all Offenders? Is there frequent Meetings of the Members of Seſſion, for Faſting and Prayer according to the Act of Aſſembly 1699. Doth he travel with publick Penitents in private to make them ſenſible of their Sin, according to its Circumſtances, and ſenſible of Mercy, that the Love of CHRIST may overcome the Love of Sin? And then doth he Abſolve them, when brought up to ſome Ingenuous Confeſſion and Reſolution for the future? Doth he ever Cenſure Perſons for Living Idle, breaking of Promiſe, or for Backbiting? Doth he Cenſure Keepers of Superſtitious Days? How doth he Reſtrain Abuſes at Penny-Bridals? Doth your Seſſion meet Weekly? Doth your Miniſter coolzie any whom another Brother hath in Proceſs? Or doth he carry any way Partially, that ſo he may become popular? Doth he in Seſſion aſſume to himſelf a Negative Voice? When he is neceſſitated to leave his Flock, doth he not acquaint the Seſſion with it? 8*vo*. Is he careful to take away Variances that fall out among Families, and Compoſe Differences among particular Perſons in tbe Congregation.

Paſtor and Heads of Families Interrogate concerning the Church-Seſſion.

§ 7. After that the Elders have Anſwered to theſe or the like Queſtions: Then the Heads of Families are to be Interrogate in general concerning theLives andManners of the Members of the Seſſion: And the Paſtor is to Anſwer more particularly to theſe or the like Queſtions. (1.) Is your Seſſion rightly Conſtitute, and all the Elders and Deacons duely Admitted according to the Acts of Aſſembly? (2.) Do they all Attend Goſpel-Ordinances and the Diets of the Seſſion? (3.) Are theyGrave, Pious, and Exemplary in their Lives and Converſations? Do they Worſhip GOD in their Families? Is any of your Elders an Ignorant Man, a Drinker of Healths, a Tipler, a Drinker Exceſſively to Drunkenneſs, a Swearer, an Obſerver

ſerver of Yule-Days, *&c* ? Is he One that Obſerves not the Sabbath ? Is he Careful to keep his Oath of Admiſſion taken before GOD in Face of the Congregation, not to *D*elate or *C*enſure, but as Edification Requires ? *D*o any of them Work on Solemn Faſt or Thankſ-giving *D*ays? Is any of them a Mocker of Piety ? (4.) Are they *D*iligent, Careful and Impartial in the Exerciſe of their Offices ? Do the Elders Viſit the Families within the Quarter and Bounds aſſigned to each of them ? Are they Careful to have the Worſhip of GOD ſet up in the Families of their Bounds ? Are they Careful in calling for Teſtimonials from Perſons who come to Reſide in the Pariſh ? Do the Elders take all Diſcipline upon themſelves without the Miniſter ? Or do they Labour to carry Things Factiouſly, or by Plurality of Voices contrary to GOD's Word, and the laudable Acts of the Preſbytery, Provincial, or General Aſſemblies ? (5.) Have the Elders Subſcribed the *Confeſſion of Faith* ? And are they well Affected to the Government, Worſhip and Diſcipline of this Church ? (6.) Have the Elders and Deacons their Diſtinct Bounds aſſigned them for their particular Inſpection ? (7.) Does your Seſſion always appoint a Ruling Elder to attend Preſbyteries and Synods ? (8.) Are the Deacons Faithful in their Office, in Collecting and Diſtributing all the Kirk-Goods, and in having a Care of the Sick Poor ? After all theſe *Queries* are over, The Miniſter and Elders are to be ſeverally Encouraged or Admoniſhed as the *P*reſbytery ſees need.

The Precentor, Beadle, &c.

§ 8. Then the Precentor, School-Maſter, and Clerk of the Seſſion, who in Countrey Congregations are ordinarily one and the ſame, and after them the Beadles, Bell-men, and Church Servants being removed, the Preſbytery is to enquire at the Miniſter, Seſſion and Heads of Families concerning their Converſation, Fidelity and Diligence in their Offices, and the Preſbytery is thereupon to proceed as the Matter requires.

§ 9. After

§ 9. After all these Enquiries, the Presbytery removing the Heads of Families, the Minister and Elders are to be inquired concerning the Congregation, (1.) Doth the Body of the People attend Ordinances duely and timeously, and stay till the Blessing be pronounced? Are they Diligent in improving the Means of Knowledge, and are they Growing therein? (2.) Are they Submissive to publick and private Exhortations, and to the Discipline and Censure of the Church, by Admonitions and Reproofs as Need requires? And do they by their Words and Actions manifest a suitable Respect to their Minister and Respective Elders? (3.) Are they careful to Educate their Children and Servants in the Knowledge of GOD? What Success hath the Gospel and Labours of Ministers and Elders among them? What Scandals, Schisms, Heresies or Divisions are among them, and if on the Growing Hand? How do they Observe the LORD's Day?

Pastor and Elders Interrogate concerning the Congregation.

§ 10. Then the Minister, Heretors, Session, and Heads of Families being present, the Presbytery is to Inquire after the State of the Church, as to its Fabrick, the Seats therein, and Division of the same, The Church-Yard Dykes, the Utensils of the Church, Communion Cups, Cloaths, the Ministers Manse, if it be in Repair, The Glebe and Stipend, the Sallary of the School-Master, Precentor, Session Clerk, and Beadles, and how the Communion Elements are provided, whether they be payed for out of the Poor's Money, and that when the Communion is but Celebrated once a Year? *Vid.* § 24. *Tit.* 2. *Lib.* 2. Enquiry is to be made how much the Stipend is? of what Nature? How payed? and if there be a Decreet of Locality for it? As also, about the State of the Poor, whether there be any Mortifications and Legacies for them, or other Pious Uses? And how these are Secured, and their Interests payed and Applyed, and how they have been Managed and Imployed from time to time, *Sess.* 18.

Pastor, Kirk-Session and Heads of Families Interrogate about Things of common Concern.

Assem. 1700. After the Visitation is over, all Parties are to be called in, and the Moderator is to Conclude all with Prayer.

TITLE XIV.

Of Provincial Synods.

The Constituents of a Synod, their Time of Meeting, &c.

§ 1. THe Synod or Provincial Assembly is immediately Superior to the Presbytery, and consists of several Presbyteries met together for their mutual Help and Comfort, and for Managing the Affairs of publick Concern within their Bounds. The Number of Presbyteries in each Synod is Determined by the National Assembly, and they meet ordinarly Twice every Year, and at such set Times as the Neighbouring Synods may conveniently Correspond one with another, which is done by sending a Minister and Ruling-Elder mutually from one to another, *viz.* The Provincials of *Lothian*, *Mers*, &c. The Provincials of *Drumfreis*, *Galloway*, *Glasgow*, and *Argyle*, The Provincials of *Perth*, *Fife* and *Angus*, &c. The Provincials of *Aberdeen* and *Murray*; The Provincials of *Ross*, *Caithness* and *Orknay*; See likeways the Order of the Provincial Assemblies in *Scotland*, according to the Presbyteries therein contained in the Act of Assembly, *Decem.* 17, 18. 1638. Act 24.

Synod opened, Rolls made up, Moderator chosen, and Correspondents Inrolled.

§ 2. The Moderator of the former Synod doth in the Morning before the Meeting, preach a Sermon suited to the Occasion, and after Sermon doth Intimate to the Members, that they immediately Repair to the Synod House; when they are met, He doth open the Meeting with Solemn Prayer; Then the Clerk having made up the Synod

nod Roll from the Rolls of each Preſbytery preſented to him by their Reſpective Moderators, He is to call the ſame over and to mark the Abſents. In making up the Synod Roll it is uſual to change the Order thereof every Synod, ſo that the Preſbytery that was firſt called in the Roll of the former Synod is now called laſt. Then the Synod proceeds to the choiſe of a New Moderator, who firſt calls for the Correſpondents from the Neighbouring Synods: and their Commiſſions being Read, they are Inrolled as Correſpondents.

Committees of Synods their Work, Uſe and Power.

§ 3. Committees are to prepare Matters, and to lop off unneceſſary Work for gaining of Time, and to hinder Heats by publick Debates, and to facilitate their Work, they may Sub-commit any part thereof to a few of their own Number; And they may likewiſe Adviſe one with another in weighty Affairs, even before Report to the Synod, thereby the more to prevent Debates. Any Affair Tabled before them, though by them Rejected, may be brought in, in full Synod, Yet ſo, as the Member or Party who bringeth in the Matter, be ſure to have very much Reaſon or Neceſſity for ſo doing. All Synods may have the following Committees. 1. A Committee for Overtures; 2. Another for Bills, References and Appeals; And a 3d For Reviſing Preſbyterie Books, who are to meet at ſuch Times & Places as the Synod appoints: Each Committee and Sub-Committee is to conſiſt of Miniſters and Ruling-Elders: The Moderator and Clerk of the Synod is Moderator and Clerk to the Committee of Overtures. All other Committees chooſe their own Moderator and Clerk, who is to preſent their Report to the Synod in Writing: Any Member of a Judicatory may be preſent with the Committee though none of the Number, and may Adviſe but not Vote there: As alſo may one of a Committee be preſent in Sub-Committees of their

own Appointment, all which Committees are choſen by the Synod only, as General Aſſemblies do theirs.

Matters treated by Synods.

§ 4. The Preſbyterie Books are called for and produced, and each Book is committed to ſome Members of other Preſbyteries to be Reviſed and Examined by them, that it may appear how each Preſbyterie hath kept Order, and performed what was Recommended to them by Synods or General Aſſemblies; And upon the Reviſers their Report, they are Cenſured or Approved accordingly. What was Obſcure or Difficult for the Preſbyteries, or might concern them all in common, is Reſolved and Ordered: What hath been done Amiſs by Preſbyteries is Redreſſed: And if any Difficulty ariſe which doth not fall under ſome Church Conſtitution, it is referred to the National Aſſembly.

Preſbyteries are to carry home and read Synod Acts.

§ 5. Every Preſbytery is to get an Extract of the Acts of every Synod, and to Read ſuch of them in the Preſbytery as are of General Concern, or which particularly relate to any in their Bounds, that they may be the better Obſerved.

Privy Cenſures by Synods.

§ 6. At the privy Cenſures, none ought to be preſent but Members. Upon the Reviſers their Report of the Preſbytery Books, each Preſbytery is removed *per vices*, in order to privy Cenſure in the ſame manner as was ſaid of the Miniſters in Preſbyteries, and of Elders in Seſſions, *Vid.* § 1. *Tit.* 15.

Centeſima to *Miniſters Widows and Children.*

§ 7. By the 12th *Article* of *Cap.*8. of the *French* Church Diſcipline, concerning Provincial Synods, The Paſtors in each Province ſhall Repreſent the Widows and Children of Miniſters which Dyed in the Service of the Church, to be Supported and *M*aintained at the common Charge of each Province; and where the Province ſhall be Ingrateful, the National Synod ſhall Redreſs it. Our Church propoſeth the ſame Perſons as proper Objects for the Paſtors in the Synods their Charity, and the *Centeſima*, or Hundreth part of each Benefice to be the Fund, and payed in to the Collector

Collector thereof Yearly, who is to be appointed by each Synod, and is to Distribute the same to the Relicts, and Children of Deceast Ministers within the Bounds of the Synod conform to their Order.

TITLE XV.

Of Extraordinary Synods and General Assemblies.

§ 1. EXtraordinary Synods, I call such, as that of the Assembly at *Westminster*, which consisted of Divines and Gentlemen, many of whom were not Elders, Called and Nominated by the Civil Power to Consult about the Doctrine, Worship and Government of the Church. Or, when Ministers without Delegation from the Church, do of themselves meet by virtue of their Office. Which Synods this Church doth not Approve of in a Settled and Constitute Condition, but only in such Churches as are not yet Constituted. It being always free to the Magistrate to Advise with Synods of Ministers and Ruling Elders, meeting upon Delegation from their Churches, either ordinarly, or being Indicted by his Authority occasionally. *See* the Act of Assembly 1647, *Approving the Confession of Faith.* Yet by Act of Assembly, *Decem.* 19th 1638. Ministers are Obliged to give their Advice and Good Counsel in Matters concerning the Kirk, or the Cnscience of any whatsoever, to His Majesty, to the Parliament, to the Council, or to any Members thereof for their Resolutions from the Word of GOD.

Extraordinary Synods only to be held in a disturbed State of the Church.

§ 2. By

Members of a National Assembly by the Directory should be as many Ministers, at least as Ruling-Elders.

§ 2. By the Directory for Church-Government, as it was Printed in the Year 1647, to be Examined by Presbyteries, the Assembly was to consist of as many Ruling-Elders as Ministers, which doth agree with the 9th *Chap. Art.* 3d. of the *French* Church Discipline: But by the Directions of the *English* Parliament, *Aug.* 19. 1645. It is Provided, that there be in all Assemblies two Ruling-Elders to one Minister. It seems indeed but Reasonable, when Presbyteries the Constituents of General Assemblies do consist of Ministers and Ruling-Elders equally, that they should be equally Represented there likewise.

The Nature of our first Gen. Ass. after the Reformation.

§ 3. At the Beginning of our *Reformation*, the Assembly did consist of these of the Reformed Religion, delegated from some Shires and Burghs where the Reformed dwelt. The Number of Pastors was then so small that it did not exceed the fourth part of the *Meeting*, as may be seen from their *Sederunts* in the Copy of the M. S. Acts of Assemblies: And until the Number of Ministers did Increase and *Multiply*, it was at first a General *Meeting* of them all: But thereafter they did Impower and Commissionate a few to Represent them, who are thereupon only Designed *the Commissioners of the General Assembly.*

What may annull a General Assembly.

§ 4. If an Assembly be Indicted by the Civil Magistrate on so short an Advertisement as Twenty Days, that Presbyteries (especially the more remote) are not timeously advertised to choose Commissioners, and so the Church not fully Represented, an Assembly so meeting is declared Null. All New *Scots* Parliaments were called on Fourty Days, and what prejudice can it do if Presbyteries receive as fair an *Advertisement*, unless it be to the Service of some present Design against the Church? 2*do.* An *Assembly* is Null where the *Members* or a Great many of them are not Elected by Presbyteries, but Named by the Magistrate, in which Case, tho' they may *Act* as *Advisers* of the Magistrate, yet they cannot *Act* as these having *Authority*

Authority from the Church. 3*tio.* An Aſſembly is Null, when Presbyteries are Repreſented by moe Miniſters than the ſtanding Acts of Aſſemblies, Regulating the Repreſentation, doth allow, or where no Ruling Elders are commiſſionated. 4*to.* An Aſſembly is Null, when Members do Vote for theſe Matters, to which they are threatned to give their Vote, by the Civil Magiſtrate. 5*to.* An Aſſembly is Null, when a Moderator or Clerk is impoſed upon them without their Suffrage: See at length Acts of Aſſembly, *December* 4*th* 1638.

Aſſemblies may meet yearly, and oftner, pro re nata.

§ 5. The General Aſſembly *December* 20. 1638. Declares that by Divine, Eccleſiaſtical and Civil Warrant, the Aſſembly of this National Church hath Power and Liberty to Aſſemble and Conveen in her Yearly General Aſſemblies, and oftner, *pro re nata*, as Occaſion and Neceſſity ſhall require: To this agrees the Act of Parliament 1690. Ratifying the Confeſſion of Faith, and Settling Presbyterial Church Government, ſo that the Sovereign, till theſe Laws be altered, cannot by His meer Authority or Proclamation, render the Meetings of Aſſemblies Precarious and Uncertain, unleſs He run the Riſque of Renewing the Diſpenſing Power.

The Repreſentation in General Aſſemblies, and the Number of Members. All Miniſters or Elders. And muſt attend.

§ 6. By the 5*th* Act of Aſſembly 1694. The Repreſentation of the ſeveral Presbyteries in this National Church in its General Aſſemblies, ſhall hold proportion to the Number of Pariſhes whether vacant or planted within each Presbytery, in manner following: All Presbyteries conſiſting of twelve Pariſhes, or under that number, ſhall ſend two Miniſters and one Ruling Elder. And all Presbyteries conſiſting of eighteen Pariſhes, or under that number, but above twelve, ſhall ſend three Miniſters and one Ruling Elder. And all Presbyteries conſiſting of twenty four Pariſhes, or under that number, but above eighteen, ſhall ſend four Miniſters and two Ruling Elders. And *Laſtly*, All Presbyteries conſiſting of above twenty four Pariſhes, ſhall ſend five Miniſters

Miniſters and two Ruling Elders. And every Collegiate Church where there uſe to be two or moe Miniſters, are, ſo far as concerns the Deſign of this Act, underſtood to be as many diſtinct *Pariſhes*: So that Presbyteries delegate not leſs than a ſixth part, nor more than a fifth part of the Miniſtery. Conform to the Repreſentation proportioned by this Act, the Number of Miniſters delegate from Presbyteries are one hundred and eighty, and of Ruliug Elders ſixty eight. But each Royal Burgh having the Privilege (if they pleaſe to uſe it) to be repreſented there by a Ruling Elder, and the City of *Edinburgh* by two, this would add ſixty ſeven moe Ruling Elders to that Order, making in all of Elders one hundred and thirty five. By that ſame Act, no perſons ſhall be admitted Members of Aſſemblies, but ſuch as are either Miniſters or Ruling Elders. And by the *6th* Act of Aſſembly 1698. it is Recommended to Presbyteries to chooſe only ſuch Ruling Elders as may and will give Attendance.

There ſhould be no Delegations but from Presbyteries only.

§ 7. Commiſſioners from Royal Burghs, till the Matter be further thought upon, by the Act of Aſſembly *July* 15. 1648. are to obſerve the ordinary Practice, *viz.* That each Burgh ſend one and *Edinburgh* ſend two Ruling Elders approven of and conſented to by the Miniſterie and Seſſion of the Burgh. But yet each Univerſitie may be Repreſented, by a Miniſter or Ruling Elder; Neither is that kind of Approbation of the Choiſe required, albeit there may be the ſame Reaſon for it: For the Members of a Faculty as ſuch are not obliged to be either Miniſters or Ruling Elders. But upon the whole, our Practice would be more eaſily accounted for, and a great deal more agreeable to that of foreign Churches, if Delegations were only from Presyteries, and the Delegates equally both of Miniſters and Elders.

§ 8. By

§ 8. By the 6 Act of Assemblie 1704. no Minister or Elder can be Commissionated to the General Assemblie by any Presbytery, Burgh, or Universitie, but such as usually reside in, or have a Relation to the Presbyterie, Burgh, or Universitie they are Commissioned from. This is Enacted, that Pragmatick and Designing Men may be kept out from being Members of Assemblies: After their own Presbyteries, &c. (perhaps from some such Apprehension) had been pleased to neglect them in their Choice.

All Commissioners must reside, or have Relation to the Bounds they Represent.

§ 9. The Assemblie by their Act the 9. of *August* 1641. considering, that if the *Scots* Kirk at *Campvere* were joined as a Member of the Kirk of *Scotland*, it would be convenient for Correspondence from forreign Parts for the Well of this Kirk: Therefore they desired the said Kirk of *Campvere* to send their Minister with a Ruling Elder, with their Commission to the next General Assembly, at which time they should be Inrolled as Commissioners from that Kirk. When that Church is vacant, the Convention of Royal Burrows have been in use to present a Minister, and act as Patrons. And by the Act of Assemblie 1704. some Propositions concerning the said Kirk approved by the Assemblie 1642. are of new Enacted and Authorized, *viz.* (1.) That the said Kirk observe that Order in the outward Worship of God, and Exercise of Discipline, as is here received by Law and Practice. (2.) That, at least, every third Year their Commissioners be at the Assemblie, whose Expences are to be payed by their own Kirk, till this Church be in a better Capacity to do it. (3.) That they advise with the Presbyterie of *Edinburgh*, or Commission of Assembly concerning Emergent Difficulties.

The Scots Kirk at Campvere Represented: Their Instructions, &c.

§ 10. By the Act of Assembly 1638. *December* 17, 18. It is referred to particular Presbyteries, and especiallie to the Ruling Elders therein, that Commissioners to Assemblies their Expences be born conform to former Acts of Assemblies, by the particular Parishes in every Presbyterie, and pro-

Commissioners to and from Assemblies: Their Expences.

portionallie by all ſorts of *Perſons*, able in Land or Money therein: Which Act is ratified by the Aſſembly 1639. *Auguſt* 29. and Extended to the Expences bearing of ſuch as ſhall be ſent in Commiſſion by General Aſſemblies: But it's referr'd to the Parliament for making theſe who are ſtented to pay their Proportions: By which it's clear that Presbyteries may Stint the people within their own Bounds, for defraying the Charges of thoſe therein, who attend General Aſſemblies: But then it muſt not be Exacted, but only Received from a willing condeſcending People, which will certainlie be very unſerviceable if otherways received, unleſs the Expenſes be moſt inconſiderable. And the Practice might prove more ſerviceable in a diſturbed State of the Church, when Miniſters come to be deprived of their Stipends. Since the Year 1642. our Sovereigns have beſtowed four or five hundred pound *Sterling* Yearlie, to be Imployed by General Aſſemblies, which will do much to defray the Expences of Commiſſions from General Aſſemblies, ſent to viſit the Remoter parts of the Church, *vid. Aſſ.* 1642. *Auguſt* 5.

The Stile of Commiſſions to General Aſſemblies.

§ 11. The General Aſſemblie, by their 8*th* Act 1695. gives the Form after inſert for a Directory to Presbyteries in their giving Commiſſions to their Members for General Aſſemblies; Which Form is likewiſe obſerved by Univerſities, each whereof ſends one, as alſo Royal Burghs, *mutatis mutandis*. At the day of Years, The which day the Presbyterie of Did, and Hereby does nominate and appoint Mr. *A. B.* Miniſter at C. Mr. *D. E.* Miniſter at F. and Ruling Elders their Commiſſioners to the next General Aſſemblie of this Church, Indicted to meet at the day of next to come, or when or where it ſhall happen to ſit, Willing them to Repair thereto, and attend at all the Diets of the ſame, and there to Conſult, Vote and Determine in all Matters that come before them, to the Glorie of God and Good

Good of His Church, according to the Word of God, the Confeſſion of Faith, and agreeable to the Conſtitutions of this Church, as they will be Anſwerable, and that they Report their Diligence therein at their Return there-from, Extracted by me, *&c.* And by the *6th* Act of Aſſemblie 1704. this Clauſe muſt be inſert and added to the ſaid Form of all Commiſſions, *viz.* That they have ſubſcribed the Confeſſion of Faith of this Church, according to the *11th* Act of the General Aſſemblie *Anno* 1700.

The Reaſon for this Uniformity.

§ 12. The Reaſon for Enacting this Uniform Method, was, That all Members might be alike free: For before this Time ſeveral Preſbyteries did Inſert in their Commiſſions particular Inſtructions and Limitations, which did not a litle Muzzle and Confuſe the Members, and might at ſome Occaſions have proved an advantageous Handle for ſuch as were not tender of the Churches peace.

When Commiſſions are to be given in.

§ 13. By the *4th* Act of Aſſembly 1694. Commiſſioners from Preſbyteries and others are appointed to give in their reſpective Commiſſions to the Clerk of the General Aſſembly, the Night at leaſt before the firſt Diet or Meeting thereof, to the Effect the Rolls may be timeouſly made up, and that the Commiſſions may be conſidered by the Aſſembly without any Interruption: And all Commiſſions not ſo given in, ſhall be delivered in the Intervals, betwixt and the After-diets.

Commiſſioners are to be Elected fourty Days before they meet: And Why?

§ 14. By the *6th* Act of Aſſembly 1698. Preſbyteries are appointed to chooſe their Commiſſioners to General Aſſemblies at leaſt fourty Days before the Sitting thereof: That which gave Riſe to this Act was, that the Civil Authority, for ſome time before that, had been pleaſed, (though not agreeably to the Act of Parliament 1690. in favours of the Church) to Interpoſe a privative Power in adjourning General Aſſemblies to a longer time than the Appointment of the preceeding Aſſembly, whereby their Meetings were rendered both Infrequent and uncertain: And with

some View to obviate this, I think, the Act hath been made, but yet especially that Members might be in case to attend, being so long chosen before the time.

The Sovereign or their Commissioner Honours the Assembly with Their Presence, which, tho acceptable, yet is not Essential to an Assembly.

§ 15. The General Assembly useth to be Honoured with the Sovereign's Presence, either by Their Royal Person, or by Their High Commissioner: For which the Moderator in the Assemblies Name doth use to express their Thankfulness, and how great a Mercy they do esteem it to have the Countenance of Civil Authority. But there have been many General Assemblies begun, held and continued in *Scotland*, without either the King or His Commissioner's Presence: And that it was not, nor yet is contrary to Law, is Evident, if the first Act of Parliament One thousand five hundred ninety two, Ratified in Parliament One thousand six hundred and ninety, be duely considered.

The first Commission was the King's Missive.

§ 16. The first Commission that was granted, was by King *James* the VI. *Anno* 1580. as may be seen in an old M. S. of the Acts of Assemblies, and was nothing else but a Missive Letter under the King's own Hand, the Tenor whereof follows. *Trusty and well Beloved Friends, We Greet You well. We have directed towards You our Trusty Friends the Prior of* Pittenweem, *and the Laird of* Lundie, *Intrusted with Our Power for that Effect, for Assisting You with Their Presence and Counsel in all Things that They may, tending to the Glory of* GOD, *and Preservation of Us and Our Estate, Desiring You heartily accept them, and Our Good Will committed to Them for the present in Good Part. Sua We Recommend You to* GOD's *Blessed Protection. From Our Palace at* Falkland, *the 22d Day of* July 1580. *JAMES R.*

The Form now is more Solemn.

§ 17. But now these Commissions are more Pompous and Solemn, passing in *Latine* under the Great Seal. Sometimes they have been Complex, cloathing the Commissioners with somewhat of a Vice-Roy-ship in the State, as well as Commissioner

missioner to the Assembly: Thus it's said the Marquiss of *Hamilton*, and Earl of *Traquair* their Commissions were in the Years 1638. and 1639. The Commissions granted since the Revolution, you may see in the printed Acts of Assemblies. Though these Commissioners be respected in the Assemblies, and about Assembly Affairs, as Representing the Sovereign's Person; Yet I doubt if they could claim any Place or Precedency in Meetings of State, meerly as Commissioners to the Assembly. But this is still kept undecided, as appears by their Disappearing at such Mettings while the General Assembly is sitting.

Presbytery of Darien *Represented.*

§ 18. The Presbytery of *Caledonia* in *Darien* is authorized to send Yearly two Representatives to the General Assembly: They being a part of this National Church, and subject to Her Assemblies, as appears from the Instructions given them by the Commission of the General Assembly 1699.

The Opening of the Assembly.

§ 19. The Moderator of the former Assembly opens it with a Sermon; But in case of his absence, his Predecessor in that Chair hath the Sermon: And in absence of them both, the eldest Minister of the Town where they meet preacheth, and openeth the Assembly by Prayer, and Moderates till a new Moderator be chosen. Thus it was done in the Assembly at *Glasgow* 1638. After Sermon the Members go into the Assembly-House, where, after Prayer by him who preached, a new Moderator is chosen in the manner before-mentioned, their Clerk continuing by Commission, sometimes during Life. It is to be remembred that before the new Moderator is chosen, the Rolls must first be made up, and at the calling of each Presbytery, Burgh and University, their Commission is Read. After the Assembly is thus constitute, the Person representing the Sovereign, produceth their Commission to Him for that Effect, and ordinarly a Letter also from the Sovereign to the Assembly, both which are publickly read with

with great Honour and Reſpect, the Members ſtanding all the time that the Letter directed to them is a reading; And by their Appointment, both Commiſſion and Letter are Recorded in their Books. And all the time of the Commiſſioner's Preſence, the Members ſit diſcovered. The Commiſſioner ordinarly has a Diſcourſe to the Aſſembly, aſſuring them of their Majeſtie's Protection, and continued Favour, and he Intreats them to Unanimity and Diſpatch in their Affairs; To which the new Moderator uſeth in Name of the Aſſembly to make a ſhort and ſuteable *Return*, both which are likewiſe Recorded.

The Order obſerved among the Members, and in the Aſſembly-Houſe.

§ 20. By the Act of the Aſſembly *July* 29. 1640. It is appointed that the Commiſſioners ſit together unmixed, and the Places where they ſit be divided from the Seats of others. As alſo, that four Perſons of Reſpect have Warrand to enjoyn that there be no Noiſe, no Standing, nor diſorderly Behaviour: And if any ſhall diſobey them, or direct his Speech to any, except to the Moderator, he is and that one at once with leave firſt aſked and given, to be rebuked by the Moderator: And if he deſiſt not, he is to be remov'd out of the Aſſembly for that Seſſion. As alſo, that the Minutes of ilk Seſſion be read before their Riſing, and if the Matter concern the whole Kirk, let it be read in the beginning of the next Seſſion. This Order is to be read the firſt Seſsion of each Aſſembly, and the Act is Ratified *July* 28. 1641. and *Auguſt* 6. 1642.

Committees of Aſſemblies: Their Number & Way of being choſen.

§ 21. The ordinary Committees uſed in General Aſſemblies are, 1. The Committee for Overtures. 2. The Committee for Bills, References and Appeals. 3. The Committee for Elections and Commiſsions. 4. Committees for Reviſing Synod-Books and Regiſters, and of Commiſsions of General Aſſemblies. 5. A Committee for Cenſuring of Abſents, and nominating Miniſters to preach before the Commiſsioner if preſent. 6. When the King or Queen Honours them with a Letter, there is in the firſt place appointed

ted a Committee for Drawing an Anſwer thereto. There are alſo other Committees for particular Matters, named as is found needful. All Committees of Aſſemblies are to conſiſt of Miniſters and Ruling-Elders, Members of ſeveral Synods, and in more numerous Committees, ſome out of every Synod: All which Committees are ordinarly named by the Moderator, in preſence, and approved by *tacite* Conſent, only ſometimes Members propoſe the Adding of ſome others, whoſe Motion uſeth likewiſe to be Acquiſced in: So that there hath never yet been any Election of Committees, either by Synods giving in ſeparate Liſts, or by Members giving in Liſts, as has been done in our late Parliaments. Only for preventing the perplexing of Aſſembly Buſineſs, it is fit that no Member be put upon moe Committees than one.

Committee of Overtures and others their Power how reſtricted.

§ 22. *A*lbeit no Buſineſs ought to come in to the *A*ſſembly directly, till it be propoſed to, and prepared by ſome Committee to whom it properly belongs; Yet no Committee hath a Negative over the *A*ſſemblie: *A*nd it was never their Intention to Confine and Reſtrict themſelves only to Conſider of theſe Matters which their Committees were pleaſed to allow and Tranſmit to their Conſideration: For by *A*ct of *A*ſſemblie, *July* 29th 1640. An Overture (and from a Parity of Reaſon, a Petition or any other thing) may be propoſed in full Aſſembly with the Reaſons thereof, after that the Committee hath refuſed to Tranſmit the ſame.

No Eccleſiaſtical Proceſs to be Printed without Allowance.

§ 23. To avoid Altercations and Debates in open Aſſembly, which might prove Dangerous, and are always very Indecent, after Matters have been prepared by Committees, they are Tranſmitted to the Aſſembly. Now this Deſign and Order may be much ſtruck at and inverted, when Members or particular Perſons do print their Petitions or Overtures to the General Aſſembly and Nation, before they be orderly brought in. Therefore by the 17th

Act

Act of Aſſembly 1700. All Perſons are Diſcharged to preſume to print any Petition, Appeal, Reaſons, or Anſwers, or any part of any Proceſs to be brought in to the General Aſſembly, or any other Church Judicatory, without Leave given by them, with Certification that the ſame ſhall not be Read nor Conſidered.

A Diet for Prayer.

§ 24. It is the laudable Cuſtom of Aſſemblies, before they begin cloſs to their Work, to appoint betwixt Nine and Twelve in the Fore-noon, to be ſet apart by the Members for publick Prayer in the Aſſembly-Houſe, to the Almighty GOD, for His Countenancing and Directing them in the Matters that ſhall come before them: Where the Commiſſioner is likewiſe pleaſed to attend and join in Prayer: As may be ſeen in the firſt Three printed *Acts* of *Aſſembly* ſince the *Revolution*, and among the *Indices* of Unprinted *Acts* thereafter.

Matters treated in Aſſemblies.

§ 25. Conform to Antient Cuſtom, by the 3d. *Act* of *Aſſembly* 1702. All Synod Books are appointed to be punctually brought in and preſented to the General Aſſembly Yearly, in the Beginning thereof: Which Books, after hearing a Report concerning them, from the Committee appointed to Reviſe them, the Aſſembly does Approve or Diſſallow thereof as they find Ground. All References from Synods, Appeals, Grievances, Petitions and Complaints are here Examined and Anſwered: Acts and Conſtitutions for all the Churches are Agreed upon with common Conſent, conform to the 9th *Act* of *Aſſembly* 1697, of which hereafter about preventing of Innovations. Here Courſe is taken for Planting of Churches with well Qualified Miniſters: Rules are ſet down, by which Inferiour Judicatories ſhall be directed in all their Proceedings. It is their Buſineſs to ſee that the ſmall part of the Patrimony of the Church yet remaining be preſerved and rightly Applyed. They join or disjoin Pariſhes from Preſbyteries, and Preſbyteries from Synods:

They

They Indict National Fasts and Thanks-givings: They are concerned to appoint fit Persons and Methods for drawing up the History of the Church: They also ought to take care that Works of Charity, for Sustentation of the Poor, be promoted. By the Wisdom and Authority of this Assembly, Gangrens of Errours and Divisions are prevented, that they spread not against Truth and Unity. But they Decline to Meddle in these Matters they judge Civil, as being Incompetent to them, as may be seen by the *Index* of Unprinted *Acts* of *Assembly* 1690. Church Judicatories ought not to meddle formally with Civil Matters, no more than the State ought to meddle formally with Matters Ecclesiastick; but the Object materially Considered may be the same, and fall under Consideration, both of Church and State, in different Respects. By the 5th *Article* of the 31 *Chapter* of our *Confession*, Synods or Councils are to handle or Conclude nothing but what is Ecclesiastical, and are not to Intermeddle with Civil Affairs which concern the Common-Wealth, unless by way of Humble Petition in Cases Exteaordinary, or by way of Advice for Satisfaction of Conscience, if they be thereunto required by the Civil Magistrate.

Commissions of General Assemblies, their Power.

§ 26. What Matters General Assemblies cannot overtake themselves, they do Refer to their Commissions; In propriety of Speech they do Import the same thing with Committees; Yet, *de praxi*, a Committee is appointed only to prepare Matters, whereas a Commission determines in Matters committed to them, and from whose Sentence therein there lieth no Appeal to the Ensuing General Assemblie, though a Complaint may be Tabled before the next Assemblie against the Commission their Proceedings. The Power of the General Assemblie is never Lodged in them, as to making *Acts* in any Case: And it is both more Expedient and Decent that the Assemblie Determine in Cases of Appeals from Synods, where they have been

unanimous in their Sentence, than to Refer the final Decision to a Commission, who may be of a smaller Number than the Synod, and whose *Quorum* is but about the Eighth Part of some Synods. Delegation, or Commission to Determine, seems inconsistent with the Principles of Presbyterial Government: For if the Assemblies of the Church can give Power to Delegates to determine in one Point, they may in more, and consequently in all, and thereby may introduce a Prelacy. General Assemblies should not give any other Delegations but Executive, except in Extraordinary Cases: For they being Delegates themselves, ought least of any Church Assembly to Delegate: And if they can commit their Power to Twenty one, certainly they may commit the same to Fourteen. Commissions may have Sub-Committees for Preparing and Reporting, but not to Determine, or so as to Roll the Commission upon them. The Commission and the Proceedings, and Register of their Actings are always subject to the Censure of a General Assembly; If the Assembly do not appoint their Moderator and Clerk to attend them in those Stations, they may then Nominate their own Moderator and Clerk. Their *Quorum* is Twenty One, whereof Fifteen to be always Ministers, and they continue till a New General Assembly meet, as may be seen in the Printed Commissions in the Acts of Assemblies.

The Method of choosing Members of the Commission, their Charges to be payed, and Churches Supplyed.

§ 27. The General Assembly by their 6th Act 1705. Does appoint that the whole Presbyteries of this National Church be Equally Represented in Commissions, and that their Representation be proportioned to the Number of Ministers that are in each Presbyterie; The Old Ministers which were Ordained before the Year 1662, being always supernumerary: and that two or three of the Members of the General Assemblie in each Synod, be appointed as a Committee to Name the Members of the Commission,

Commiſſion, and that the whole Repreſentatives of Preſbyteries in the ſeveral Synods at Aſſemblies, do meet by themſelves, and Name their Reſpective *M*embers of the ſaid *C*ommittee. And the General Aſſemblie by the ſame *A*ct, does appoint the Expenſes of the ſaids *C*ommiſſioners to be born and Defrayed by the ſeveral Preſbyteries which they Repreſent, according to the Number of the Days of their *A*ttendance; and that their Preſbyteries take *C*are to Supplie their *C*harges with Preaching during their *A*bſence, on the *A*ccount foreſaid.

Abſents from the Commiſſion how cenſured.

§ 28. The General Aſſemblie by their 6th *A*ct 1703, does Require the *M*embers of the *C*ommiſſion to give all due *A*ttendance thereon, as they will be *A*nſwerable, which *M*embers are *C*ondeſcended upon by the 15th *A*ct of *A*ſſemblie 1705, to be one at leaſt of that Number of the ſeveral Preſbyteries who are *M*embers of the *C*ommiſſion, and they are to attend the *M*eetings thereof by Turns. *A*nd Preſbyteries are Ordained to ſend in to the *C*ommiſſion, the Names of ſuch as they have appointed to attend the ſeveral Diets thereof. *A*nd by the foreſaid *A*ct 1703, the *C*lerks of the *C*ommiſſion are Ordained to Record Liſts of the Abſents from each Quarterly *M*eeting, and from the *M*eetings in time of Parliament, or who ſhall go away therefrom without Leave firſt obtained, and ſend an Extract of their Names to the Reſpective Synods, who are Impartially to *C*enſure them, and make Report thereof to the next General *A*ſſemblie: *A*nd to this Effect, the *C*lerks of the *C*ommiſſion are Ordered to lay before that *A*ſſemblie the Liſts of theſe *A*bſents. *A*nd in the Inſtructions to the *C*ommiſſion 1708, all Preſbyteries within Twelve Miles of *Edinburgh* are Diſcharged to *M*eet during Sitting of the *C*ommiſſion.

Delegates from Preſbyteries to attend Parliaments.

§ 29. Some few Years ago, the Preſbyteries of this Church, conform to what had been before practiſed, did Delegate One of their Number, being a Miniſter, to Re-

pair to the City where the Parliament did ſit, and during that time attend, and Watch *ne quid detrimenti caperet Eccleſia.* But the Commiſſion conſiſting of both Miniſters and Elders, without which no Eccleſiaſtical Judicatorie or Commitee thereof can be Lawful (*vid.* § 4. *h. t.*) and alſo, that all the Preſbyteries are therein Repreſented, and that the Commiſſion now is Ordered to *A*ttend in time of Parliament; the former *M*eeting of ſuch Delegates is now Supplied more conveniently by the *M*eeting of the Commiſſion; and I am ſure, much more Legally both by Church and State Conſtitutions: For neither do *A*uthorize any other Eccleſiaſtical Judicatorie but *A*ſſemblies, Synods, Preſbyteries and Kirk-Seſſions, or their Committees, conſiſting of Miniſters and Ruling-Elders. *A*nd the *A*ct of Parliament 1690, Ratifying the *Confeſſion of Faith*, and Settling *Preſbyterian Church Government*, doth Eſtabliſh the Exerciſe of that Church Government in the Hands of Miniſters and Ruling Elders. *A*nd it may be doubted if the State would Correſpond with ſuch Delegates, or Regard *A*ddreſſes from them, their *M*eetings wanting the Stamp, both of Civil and Eccleſiaſtical *A*uthority.

No lawful Church Court without Elders.

§ 30. In the *A*ct of *A*ſſemblie, 29th *July* 1640. *Art.* 2d. Concerning Ordering the Aſſemblie Houſe, The Commiſſioners to General Aſſemblies are to receive Tickets from the Magiſtrates of the Burgh where the Aſſemblie ſits at the Delivery of their Commiſſions, whereby they may have ready Acceſs to the Aſſembly Houſe: and this *A*ct is renewed by the Aſſemblie 1690, and is among the Unprinted *A*cts.

Members of Aſſembly ſhould have Tickets for Acceſs.

§ 31. By that ſame *A*ct, Whatſoever Preſbyterie, Burgh or Univerſitie ſhall not ſend Commiſſioners, is to be Summoned to the next General Aſſemblie, to be Cenſured by them as they find reaſonable. And by the 6th *A*ct of Aſſemblie 1699, Such Commiſſioners as do not attend

Abſents from Aſſemblies how Cenſured.

attend duely from the beginning and through the whole Diets of the General Assembly, and the Committees which they may be put upon, not having a Relevant Excuse, may be Censured as the Assembly shall think fit.

The Stile of Acts of Assembly, and Petitions thereto; They must not run in the Magistrates Name.

§ 32. The Stile of Acts of the General Assembly, runs thus; The General Assembly Appoints and Ordains, and sometimes Recommends. Thir Acts should rather be like Directions from the Chair, than Discourses from the pulpit. Though the Soveraign's Person be therein sometimes Represented, Yet his Name cannot be Joined with the General Assembly in making of Acts: Because the Civil Magistrate considered as such, is neither Head nor Member of the Church, nor of any of Her Judicatories, and it is the Authority of the General Assembly of this National Church that can alone bind her Members. Which Authority doth not so properly consist in making of Laws, as it doth in declaring what their Lord and Master hath already appointed. And though Ecclesiastical Constitutions should be Enacted in the Sovereign's Name and Authority, yet these could never bind the Subjects as such, because the Legislative Power is lodged in the Sovereign and Estates of Parliament, and in them only: Hence all Petitions to the General Assembly are only Addressed to the Moderator and Members thereof, and not to the Sovereign nor His Commissioner, though present: For Petitions can be presented to none, but to such as those in whose Name and Authority they are granted.

The Authority of Assemblies and their Acts. The Pain of Disobeying & Declining the same.

§ 33. By the Act of Assembly 20 *December* 1638, they Ordain Presbyteries, and provincial Assemblies to Conveen before them such as will not acknowledge that Assemblie (and from a Parity of Reason any other Assembly) nor acquiesce unto the Acts thereof, and to Censure them accordingly, and refractory Presbyteries are to be Summoned by the Commission to Compear before the next General Assembly to abide their Tryal; And by a Clause in the end of the

the 5*th* Act Seſſion 2*d*. K. *W*. and Q. *M*'s Parliament, It is provided, that whatſoever Miniſter being conveened before the General Aſſembly, or Repreſentatives of this Church, or their Commiſſions, or the Viſitors to be by them appointed, ſhall either prove Contumacious in not appearing, or be found Guilty, and therefore Cenſured, whether by Suſpenſion or Depoſition, they ſhall *ipſo facto* be ſuſpended from, or deprived of their Stipends and Benefices. And by the Book of Canons put in Form for the Government of the Church of *Scotland*, by *Engliſh* Biſhops their Counſel and Influence and approved by King *Charles* I. His Proclamation dated at *Greenwich* the 23*d* day of *May* 1635, It is appointed, that National Synods called by His Majeſtie's Authority, for Matters concerning the State of the Church in general, ſhall bind all perſons as well abſent as preſent, to the Obedience of the Decrees thereof in Matters Eccleſiaſtical. And if any ſhall affirm or maintain that a National Synod ſo aſſembled ought not to be obeyed, he ſhall be Excommunicated till he publickly Repent and Revoke his Errour.

Advocate or Procurator, Sollieitor or Agent for the Kirk.

§ 34. Beſide the Clerk of Aſſembly there uſeth to be an Advocate or Procurator for the Kirk choſen by them who was to adviſe them in Matters of Civil Right, and to plead what concerns the Right of the Church before Civil Courts, and in his Name Summonds are raiſed before the Commiſſion of Parliament for Plantation of Kirks, or Lords of Seſſion. The Agent or Sollicitor for the Kirk is likewiſe Elected by the Aſſembly, and he Acts and Agents their Buſineſs in ſuch Order as they appoint him. Their Agent was priviledg'd to be preſent at all the Meetings of that Commiſſion of Parliament, even when they acted with cloſs Doors. In the late Prelatick Times, the King's Sollicitor was by His Patent conſtitute Solicitor for the Church too: But whether in this Government Her Majeſtie's Advocate be alſo by his Patent conſtitute Advocate for the Church, is a Thing I cannot

cannot certainly assert. The Agent has the Care put upon him of sending Dispatches to the several Presbyteries.

§ 35. All Church Judicatories at every Rising appoint their next Sitting, so that their Meetings are not precarious and uncertain, but Intirely and Intrinsically, as to their Time and Frequency, lodged in the Will and Discretion of the Plurality of the Members of Her Respective Judicatories. The Kirk-Session, being properly the only Radical Church Judicatory, not consisting of Delegate, but of perpetuat and fixed Members, cannot be at any time dissolved, but by themselves are adjourned from time to time: Albeit they use to begin and conclude the Number of their Sessions, at and after the Presbytery hath approved of their Proceedings. All Church Judicatories, but especially this, were called *Consistories*, where the Judges did stand in Administring Justice (*vide* STAIR's *Instit. pag.* 524) And even yet, their Moderators, Presidents, or Prolocutors do stand, as the Mouth of their Meetings. Presbyteries are Radical as to the Pastors, and Delegate as to the Ruling Elders, (*vide Tit.* 12. § 1.) For the first Presbytery after each ordinary Meeting of the Synod, when new Elections of Elders are returned, that Presbytery doth begin the first Session thereof, and so other Sessions of the same continue till the next Synod in ordinary be over. And Provincial Synods consisting of Presbyteries, they do in part dissolve twice a Year, and so the Synodical Sessions are counted from one ordinary Synod to the next ordinary Meeting of another Synod. But National Assemblies being Annual, and consisting all of Delegates, as hath been said, the Sessions thereof are counted from their first Meeting until they part and dissolve in the same place, at least by the Constitutions and Practice of this Church, until, and no longer than the ordinary time for a new Annual Assembly: For no doubt, an Assembly, if the Affairs of the Church so require, may Translate, and also continue their Meeting, as

The Adjourning and Dissolving of Assemblies and other Church-Judicatories.

was

was done *Anno* 1641. but it neceſſarly diſſolves before the Year. At the cloſing of every Seſſion of the Aſſembly, the Moderator appoints the next Dyet, in Preſence, and with Conſent of the Members; Then He turns to the Commiſſioner and acquaints His Grace thereof, to which He ordinarly Anſwers, *Be it ſo*, Or, *I am ſatisfied*; Whereupon the Adjournment is Intimated publickly at the Door by the Beddal, afterwards the Moderator cloſes with Prayer.

Committee for Reviſing the Minutes and printing the Acts.

§ 36. At cloſing of the General Aſſembly, ſome few of their Number are Nominated to Aſſiſt the Moderator and Clerk, in Reviſing the Minutes and Proceedings of that Aſſembly, before the ſame be Recorded in their Regiſters, and to determine what of their Acts are fit to be printed: But it were as proper for the Aſſembly to give Orders therein, as the Acts are paſſed.

The Ordinary way of Diſſolving Aſſemblies.

§ 37. All the Affairs which the Aſſembly could overtake, being brought to a Cloſe, the Moderator cauſeth read the Minutes of the laſt *Sederunt*, theſe of former *Sederunts* being always read at the beginning of each Seſſion; Which being done, he diſcourſeth to the Aſſembly concerning the good Providence of God that brought them together, and in allowing them the Countenance and Protection of the Supreme Magiſtrate, and exhorteth the Members to Faithfulneſs, Loyalty and Diligence in their Stations. The Moderator having underſtood the Mind of the Aſſembly from previous Communings with the Members, as to the particular time and place of the next Aſſemblies Meeting, which Dyet being concerted before alſo with the Commiſſioner, he doth in their Name repreſent the ſame to the King or Queen, or Their Commiſſioner, if preſent, and upon their agreeing thereto, it is to be recorded and publickly Intimate at the Door of the Aſſembly-Houſe by their Order. The Commiſſioner agrees ordinarly thereto in theſe or the like words (to many offenſive enough) I do in my Maſter's Name (or Her Majeſties Name) diſſolve this Aſſembly, and

and in the ſame Name and Authority I appoint the next General Aſſembly to meet at ſuch a Time and Place, which ordinarly is the ſame with that which the Moderator in Name of the Aſſembly did repreſent. Then the Moderator cloſeth the Aſſembly with Prayer, ſinging of Pſalms, and pronouncing of the Bleſſing.

How two Aſſemblies were diſſolved in an extraordinary Manner, and their Behaviour in theſe Caſes.

§. 38. Indeed when it happens that a Commiſſioner doth rather Croſs than Countenance the Aſſembly, either by an abrupt and interrupting Diſſolution, or by not appointing the next Annual Aſſembly according to Law: In theſe Caſes their Behaviour is different, as may appear in the two following Inſtances. The firſt was in the Aſſembly 1638. there the M. of *H.* His Majeſties Commiſſioner, having diſſolved them after ſome few days ſitting, both in the Aſſembly-Houſe and by publick Proclamation; They did notwithſtanding (having proteſted againſt their Diſſolution) continue their Sitting till they ended the Work they met for, and appointed the time for their next General Aſſembly, for which you will find their Apologetical Vindication in their printed Letter to the King. Another Inſtance is this, The E. of *Lothian* Their Majeſties Commiſſioner to the General Aſſembly 1692, He upon *Saturday* the 13. of *February* (the Aſſembly being met and conſtitute by Prayer) did immediately thereafter deliver himſelf as follows. Moderator, what I ſaid laſt had ſo little Succeſs, that I intend to give yon no more trouble of that Nature; Only this, You have now ſate about a Moneth, which was a competent time both to have done what was the principal Deſign in calling this Aſſembly, (of Uniting with your Brethren) and to have done what elſe related unto the Church, but His Majeſty perceiving no great Inclination among you to comply with His Demands, hath commanded me to diſſolve this preſent General Aſſembly. So I in Their Majeſties Name and Authority do diſſolve this preſent General Aſſembly. Whereupon the Moderator aſked his Grace,

if this Assembly was dissolved, without naming a Diet for another? To this His Grace made Return in these Words, His Majesty will appoint another Assembly in due time, wherewith You will be timeously advertised. Upon this, the Moderator desiring of His Grace, that he might be heard a few Words, His Grace told him that he could not hear him as Moderator, but only as a private Person: The Moderator answered, In whatever Capacity Your Grace pleaseth, I begg to be heard a few Words. His Grace Replyed, That as a private Man he might speak; Whereupon the Moderator delivered Himself as follows. May it please Your Grace, This Assembly, and all the Members of this National Church, are under the greatest Obligations possible to His Majesty, and if His Majesties Commands to Us had been in any or all Our Concerns in the World, We would have laid Our Hands on Our Mouths and been silent: But they being for a Dissolution of this Assembly, without Indicting another to a certain Day: Therefore, (having been Moderator to this Assembly) in their Name, they adhering to me, I humbly crave leave to declare, that the Office-Bearers in the House of God, have a Spiritual Intrinsick Power from Jesus Christ the only Head of His Church to meet in Assemblies about the Affairs thereof, the Necessity of the same being first represented to the Magistrate. And further, I humbly crave, that the Dissolution of this Assembly, without Indicting a new one to a certain Day, may not be to the prejudice of Our Yearly General Assemblies granted to Us by the Laws of this Kingdom. Here the Members rose up, and with one Voice declared their Adherence to what the Moderator had said; Whereupon the Moderator turning himself to the Assembly, Cryed, Brethren, Let us Pray: But the Members by a general Cry pressed to name a Diet for the next General Assembly. Whereupon the Moderator said, If they pleased, the next General Assembly might meet here

The Church's Intrinsick Power asserted.

at *Edinburgh* upon the third *Wedneſday* of *Auguſt* 1693. and the Members did again with one Voice declare their Approbation thereof. Then the Moderator having ordered Silence, concluded with Prayer, and ſinging the CXXXIII Pſalm, and pronouncing of the Bleſſing.

The Church of Scotland's Judgement about the Churches Right to meet Synodically.

§ 39. In the end of the Act of Aſſembly 1647. approving the Confeſſion of Faith, It is aſſerted, that it is always free to the Magiſtrate to adviſe with Synods of Miniſters and Ruling Elders meeting upon Delegation from their Churches, either Ordinarily, or being Indicted by His Authority occaſionally, and *pro re nata*. It being alſo free to aſſemble together Synodically, as well *pro re nata*, as at the ordinary times upon Delegations from the Churches, by the Intrinſick Power received from Chriſt, as often as it is neceſſaty for the Good of the Church to aſſemble, in caſe the Magiſtrate to the detriment of the Church with-hold or deny his Conſent, the Neceſſity of Occaſional Aſſemblies being firſt Remonſtrate unto him by humble Supplication, *vide* § 1. *h. t.*

TITLE XVI.

The Order of the Rolls of Church Judicatories, and Ranking of Church Office-Bearers. And of Her Regiſters.

Rolls of Kirk-Seſſions, and Ranking of Elders.

§ 1. RUling Elders and Deacons in Church Seſſions, Regularly, ſhould be Inrolled, called and take Place, according to the Seniority of their Ordination: But the Poverty of the Church being ſuch, that there is no Maintenance or Benefice annexed to theſe Offices, therefore they uſe to be Ranked according to their Secular Stations and Imployments: Only, Seniority of Ordination may be a Rule whereby Diſputes for Precedency among Equals are to be decided.

How Miniſters take Place of one another.

§ 2. All Miniſters are Inrolled in Preſbyteries, and have Place only according to the Seniority of their Ordination; A Preſbyter labouring in the Word and Doctrine being the Higheſt Office in the Church, to be ſure no Office-bearer of an inferiour Order will ever compete with him: and therefore a Miniſter of a later Ordination, albeit he have the Character and Station of Almoner or Chaplain to the Royal Family, or of being Hiſtoriographer, Principal, or Profeſſor of Theology, or Philoſophy in any Univerſity, yet he will not preſume thereupon to take place from one of a prior Ordination: Becauſe all theſe Stations and Characters, Eccleſiaſtically conſidered, are of an Inferiour Order to that of the Paſtor, unleſs he pretend unto it by virtue of Civil Place and Power, which is condemned in Paſtors as incompatible with their Spiritual Function by *Aſſembly* 1638, *Decem.* 19. But the Order in which Miniſters deliver the Preſbyterial Exerciſes, is according to the Seniority of Erection of the Pariſh Churches where they Officiate.

Rolls of Synods, how Ordered. No Act to hinder Elders to Vote when they may be ſupernumerary to Miniſters.

§ 3. It is uſual to Change the Order of the Roll every Synod, ſo that the Preſbyterie that was firſt called in the Roll of the former Synod, is now called laſt (as was ſaid above) and that which was in the ſecond place is now called firſt: And the Members are called according to the Roll of each Preſbyterie, preſented to the Clerk by the Moderators thereof, with the Ruling Elders therein Inſert. And though a Pariſh be Vacant, or the Miniſter thereof not preſent, yet the Ruling Elder for that Church-Seſſion, is to be called for and Inrolled. But thoſe who are againſt Ruling Elders their being Supernumerary, to Miniſters in Judicatories may diſlike this. Yet if once a Judicatorie fix on a *Quorum*, whereof always ſo many are to be Miniſters, though double their Number of Elders ſhould come and be preſent, there is nothing as yet to hinder them all from Voting.

§ 4. The

§ 4. The Rolls of General Aſſemblies do begin with the Synod, which in the former Aſſemblie was called in the ſecond place, leaving the Synod which was then firſt called, now laſt, by which Rotation the Equality is better preſerved, Commiſſioners from Preſbyteries are placed in their Commiſſions according to the Seniority of their Ordination. Next to them are Inrolled the Commiſſioners from the Univerſities within the Bounds; and next to them ſuch as have Commiſſions from Royal Burghs therein. In General Aſſemblies, Ruling-Elders are called immediately after the Miniſters their Colleague Commiſſioners. *Rolls of General Aſſemblies.*

§ 5. The firſt thing to be done at every Diet, after calling the Rolls, is the hearing the Minutes of the laſt *Sederunt* or Seſſion, Read, and till they be paſſed and allowed by the Judicatorie, and alſo Subſcribed by the Moderator, there ought no Extracts thereof to be given, nor, till then, ſhould it be Warrantable for the Clerk to enter them into the Regiſter. *Minutes Reviſed and Signed before Extract, or Recording.*

§ 6. In any thing wherein the Moderator or Clerk is particularly concerned, they ought in that Caſe both to Subſcribe the Minutes, as the Privy Seal uſed to be appended to Charters, or the like paſſing the Great Seal in favours of the Keeper of the Great Seal. And at the Cloſe of the Regiſter of every General Aſſemblie, and of each Inferiour Church Judicatorie, when they are given in to be Approved by their next immediately Superiour Judicatorie. They bear, *Here ends the Regiſter of the Acts and Proceedings of from to Conſiſting of Pages.* And this Atteſtation is to be Subſcribed by the Moderator and Clerk: And every Record at the beginning is to bear it's own proper Title, *viz. The Regiſter of the* Acts and Proceedings of ſuch a Judicatorie, begun at the day of *&c.* *Clerk and Moderator a Check to one another. The Atteſtation & Title of the Regiſters.*

§ 7. By

Form of approving Church Regiſters runs in a Negative Stile.

§ 7. By the 9th *Act* of *Aſſembly* 1700, They appoint all Provincial Synods and Preſbyteries, to be careful in Reviſing the Regiſters of the Judicatories under their immediate Inſpection, and that they appoint a Competent Number of the moſt fit and Experienced among them for that Work; and when they find nothing to challenge in any Regiſter, they are to give it the Atteſtation following. The Provincial Synod of having heard the Report of thoſe appointed to Reviſe the Preſbyterie Book of

And having heard their Remarks thereupon, and the ſaids Preſbyterie's Anſwer thereto: And it having been Inquired by the Moderator, if any other had any Complaints to make againſt the Actings of the ſaid Preſbyterie, and nothing appearing Cenſurable, Ordered the Clerk to Atteſt this in their Preſbyterie Book. And ſo for the Regiſters of Provincial Synods and Kirk Seſſions, *mutatis mutandis*: And alſo for the Regiſters of the Commiſſions of Aſſemblies, by the 8th *Act* of *Aſſembly* 1706. But if there be any thing truely Cenſurable in the ſaid Books with reſpect to Diſcipline, that it be Recorded as Cenſured, both in the Synod Book and *A*tteſtation.

Order in filling up Blanks, Delatings, Interlinings, and Omiſſions in Regiſters.

§ 8. *A*ll Sentences and *A*cts are to be filled up in the Records as all other things ſhould be according to the Priority of their being Voted or *A*greed unto, and that although no Extract hath been, or perhaps never may be called for. *A*nd when any thing is omitted in the Body of a Record, it may be written on the Margine, which the Moderator and Clerk muſt Subſcribe again; When any thing is Delete, let it be marked *Delete* on the Margine, and Subſcribed as the other, counting the Lines or Words blotted out. But *Interlinings* are moſt Improper, and Derogatory to that Credit which a Record ſhould bear. Further, when any *Blank* is left in the Record, and yet there is nothing wanting, it may be Scored, or which is more proper, filled up with (*nihil hic deeſt*) which Words

may

may be lengthened or ſhortened according to the Bounds of the Blank. *See* the 9th *Act* of *Aſſembly* 1706.

§ 9. By the 11th *Act* of *Aſſem.* 1703, for the better Preſervation of their Regiſters, They Enact and Appoint that there be Two Authentick Copies thereof, both Subſcribed by the Moderator and Clerk, One Copy whereof to ly in the Clerk's Cuſtody, and the other Copy to be Sealed and laid in ſome Secure Place where the Aſſembly or Commiſſion ſhall Appoint; As alſo, that a Subſcribed Extract of the Proceedings of each General Aſſembly be ſent a little after the raiſing thereof to the ſeveral Synods within this Church to be by them Recorded in a Book. *The Regiſters how to be preſerved.*

§ 10. As to the Stile of the Aſſemblies Addreſſes and Letters to their Sovereigns, or Foreign Churches, and as to the Stile of their Letters to the Aſſembly both may be ſeen in their Printed Regiſters, as alſo theſe with the Records of their Commiſſions will Evidence what Civilities the Church pays in Congratulating and Attending on the Miniſters of State and other Great Men, thus they court their Favour, and Return them their Thanks, all done for the Benefite and Advantage of the preſent Church Eſtaliſhment. *Civilities payed by the Church.*

TITLE XVII.

Of Viſitation of Schools and Univerſities.

§ 1. ALL Schools and Colleges were to be Reformed, and none Admitted to Inſtruct the Youth privately or publickly, but ſuch as ſhould be Tryed by the Viſitors of the Kirk, *Ja. 6th, Par.* 1. *Cap.* 11. *Viſitations of Schools and Colleges were appointed by Authority of the Aſſembly.*

11. And even under the late Prelacy, none were admitted to Teach in any publick Schools, without Licence from the Ordinary, *Car. 2d. Par. 1. Seſſ. 2. Cap. 4. ſub fin.* And alſo by the *Act* of *Aſſembly*, *Docem.* 17, 18. 1638, *Art.* 4. They Ratify the *Acts* of *Aſſembly* 1565, 1567, and 1595. Whereby Viſitation of Colleges is to be by way of Commiſſion from the General Aſſembly. And the principal Regents and Profeſſors within Colleges; and Maſters and Doctors of Schools, are to be Tryed by them concerning the Soundneſs of their Judgement in Matters of Religion, their Ability for Diſcharge of their Calling, and the Honeſty of their Converſation. It is no Wonder the Church think her ſelf much Concerned, that theſe Seminaries of Learning be duely Regulated, conſidering how much it Tends to the Increaſe of Chriſtian-Knowledge and Learning, and the Advantage of true Piety and Religion. By the General Aſſembly 1638, they grant Commiſſions for Viſitation of the Colleges of *Aberdeen* and *Glaſgow*. And the Aſſembly 1639, Appoints Viſitations of the Univerſities of *St. Andrews* and *Glaſgow*. Again the Aſſembly 1640, Appoints Viſitations of *Glaſgow* and *Aberdeen* Colleges, as may be ſeen in the *Index* of the Unprinted Acts of theſe and Subſequent Aſſemblies.

Power of Viſitation Claim'd by the Sovereign. Viſitors Powers and Work diſtinguiſhed.

§ 2. The Power of Viſitations of Univerſities, Colleges and Schools is now Claimed by the Sovereigns to be Their Undoubted Right and Prerogative, as is Evident from the Narrative of the Act of Parliament 1690, for the Viſitation of Univerſities. The Power granted to the Viſitors by that Act, is only Executive or Judicative, and not Legiſlative, which neither can nor ſhould be: For ſeing the Truſt wherewith the Legiſlators themſelves are cloathed, is only Perſonal, it cannot be Delegated to others, unleſs they Receive Power from their Conſtituents for that Effect and Purpoſe. But though their Power could be Delegated, it ſhould not be done: For ſome Deſigning and Diſaffected

Disaffected Members in such Commissions might so Manage the Plurality of a *Quorum* to Plant and Regulate these Nurseries of Church and State, as might path the Way, and Dispose the Nation more easily for some pernicious Revolution. The Visitors Appointed in that Commission are both Members of Parliament and Ministers: The one Sort I think, is Appointed to Remove Disloyal Teachers, and to consider the Foundations of these Seminaries with the Rents and Revenues thereof, and how the same have been Managed, and to set down Good Rules for the Good Management thereof. And Ministers, I think, are Named, to take Tryal if the Teachers be Erroneous, Scandalous, Negligent, or Insufficient, and for Ordering the Manner of Teaching; and thereupon present their Humble Advice to the States-Men: for Authoritatively they cannot Act without Delegation from the Church. *See* the *Title* about *Extraordinary Synods*, § 1.

Who are Ordinarly the greatest Enemies to the Church Visitations.

§ 3. There is none will grudge the Church the Exercise of this Power of Visiting Colleges, so much as those Masters, who have Ground to Fear that their Insufficiency and Negligence may come to be Exposed and Discovered upon an Exact and Judicious Tryal. Again, there are some Factious Masters that desire only States-men to be Visitors, among whom they think some of their *quondam* Disciples may be found who will be Influenced to Favour their Ambitious or Revengeful Designs.

Presbyteries may yet Visit Grammar Schools twice a Year.

§ 4. As to *Grammar Schools*, the Power of Visiting them remains with Presbyteries: For by the 23 *Act*, *Parl.* 1693. It is Declared, that all School-Masters and Teachers of Youth in Schools, are, and shall be Liable to the Tryal, Judgement and Censure of the Presbyteries of the Bounds for their Sufficiency, Qualifications and Deportment in the said Office. By the *Act* of *Assembly*, 7 *Feb.* 1645. They appoint that every *Grammar School* be Visited twice in the Year, by Visitors to be appointed by Pres-

byteries and Kirk-Seſſions in Land-ward Pariſhes, and by the Town Council in Burghs with their Miniſters: And where Univerſities are, by the Univerſities, with Conſent always of the Patron of the Schools, that both the Fidelity and Diligence of the Maſters, and Proficiency of the Scholars in Piety and Learning may appear. Inquiry is alſo to be made if Maſters be Diverted from due Attendance by any other Imployment. By the 13 *Act*, *Aſſembly* 1706, Somewhat of the ſame Nature is Enjoyned, *viz.* That Preſbyteries Viſit *Grammar Schools* twice a Year, by ſome of their own Number.

Who Examine School-Maſters at their Admiſſion.

§ 5. By the foreſaid *Act* 1645. They appoint, that no School-Maſter be Admitted to Teach a *Grammar School* in Burghs or other Conſiderable Pariſhes, but ſuch as, after Examination by the Miniſters, Deputes of the Town and Kirk-Seſſion, and Paroch (which is, I think, the Heritors) ſhall be found ſkillful in the *Latine Tongue*, not only for Proſe, but alſo, for Verſe, and ſhall be alſo Approved by the Preſbytery therein.

Correſponding of Univerſities.

§ 6. By the foreſaid *Act*, they Appoint that at the time of every *General Aſſembly*, the Commiſſioners directed thereto from Univerſities, Meet and Conſult together for the Advancement of Piety and Learning, and keeping of an Uniformity in Doctrine and Good Orders among the Univerſities, what they do this way is not to Bind the Univerſities, till it be preſented to the General Aſſembly, and receive their Authority, as may be gathered from the Aſſemblies Act, 18 *June* 1646. This of New is Enacted by the *6th Act* of *Aſſembly*, 1707.

TITLE XVIII.

TITLE XVIII.

Of a General Council of Proteſtants.

§ 1. AS Provincial Aſſemblies may, and do Correſpond with other Provincial Aſſemblies, ſo may General Aſſemblies with the Aſſemblies of other Churches. In a *Manuſcript* of the Acts of Aſſemblies, *Edinburgh October* 25. 1577, You'l find that *Caſmir* having written to the Queen of *England*, of a Council to be held at *Magdeburgh*, for Eſtabliſhing the *Auguſtane Confeſſion*: The Queen wrote thereof to the Regent in *Scotland*, who Communicated Her Letter to the Aſſembly, and deſired they might ſend ſome of their Number to Aſſiſt thereat. Whereupon the Aſſembly Named Mr. *Andrew Melvill*, and ſome others. And ſome Miniſters and Elders were ſent from the General Aſſembly, to the Aſſembly of Divines at *Weſtminſter*, in Order to carry on the Unity and Uniformity in Religion and Church-Government. It belongs in theſe Caſes to the Civil Powers of theſe Nations from which they go to take care that their Charges be Honeſtly Defrayed. And the States in whoſe Dominions the Council is to be, uſe to grant a ſafe Conduct to the Foreign Correſpondents. *Vide* in the *Title* of Gen. *Aſſem.* about the Church of *Campvere*.

Correſponding with Foreign Churches, ſuch as Magdeburgh 1577. *and* VVeſtminſter 1643. *the Expenſes and ſafe Conduct of Correſpondents.*

§ 2. In the Book of *Policy* of the *Kirk* agreed unto *Anno* 1581. They ſay, Beſide theſe Aſſemblies, there is another more General kind of Aſſembly, an Univerſal Aſſembly of the Church of CHRIST in the World, which was commonly called an Œcumenick Council, Repreſent-

General Council it's Authority.

ing the Universal Church, which is the Body of CHRIST: Their Warrant to Meet, and the Authority of their Meeting must be as Good and as Great, with respect to National and General Assemblies or Convocations, as the Authority of these are, with respect to Provincial Assemblies or Synods.

The manner of Convocating and Proportionating the Representation.

§ 3. If the Protestant Princes and Common-Wealths would Condescend and Concert, that there should be a General Council at such a time and Place; Then the National or rather Provincial Assemblies, at the Appointment of their Respective Sovereigns, might meet and Delegate one Pastor and Elder for each Province consisting of an Hundred Parishes. Only from each Distinct Sovereignty, tho consisting of less than Fifty Parishes, there might be at least a Representation of the Church therein by one Pastor and Ruling Elder.

Matters of Faith almost agreed to already.

§ 4. Most of the Churches being already Bound & Obliged to Own and Maintain that *Confession of Faith*, which they have by their Canons Authorized and Approved; And there being an Universal Harmony in the Doctrine contain'd in all the Confessions of the Reformed Churches; The Work of a General Council as to Matters of Faith, would, in all probability be Sweet and Easy: And if in what Relateth to the Worship, Discipline, or Government of the Church there should be some Mis-understandings, GOD should even Reveal this unto them. Nevertheless, whereto we have already attained, let us walk by the same Rule, let us mind the same Things, *Phil.* 3. 15, 16.

Time of Meeting and President of this Council.

§ 5. If this Council were once Met and Constitute, and Countenanced by the Authority of Their several Sovereigns, then they might appoint the Time and Place of their next Council, which might be every seventh Year; And let One from different Churches be chosen to the Chair at every New Council. To prepare the Way for such a

Catholick

Catholick Meeting, it were fit in the mean time to have a Correſpondence kept among all the Churches. *Vid.* § 1. *h. t.*

§ 6. In the Subordination of theſe Aſſemblies, Parochial, Preſbyterial, Provincial and National, the Leſſer unto the Greater, doth conſiſt the External Order, Strength and Stedfaſtneſs of the Church of *Scotland.* And when it ſhall pleaſe the LORD to make Ready and Diſpoſe the Nations for a General Council, then ſhall that Beauty and Strength appear more Remarkably in the whole Catholick Church, which is the Body of CHRIST. Then ſhould the Churches be Eſtabliſhed in the Faith, Increaſed in Number Daily; And as they went through the Cities, delivering them the Decrees to keep, that were Ordained of the Apoſtles and Elders, which were at that General Council, *Acts* 16. 4, 5. They ſhould give Occaſion to many to Rejoyce for the Conſolation. Such a Time is rather to be Wiſhed than Hoped for. *Vid.* § 1. *Tit.* 1. *H. Lib.*

The Benefit of this Sub-Ordination.

The End of the Firſt BOOK.

BOOK II.

TITLE I.

Of Lecturing, Preaching, Catechiſing, Publick Prayers before and after Sermon, Singing of Pſalms, and Miniſterial Benediction.

§ 1. BY the 15th *Act* of *Aſſembly*, 1707. They Declare that there are ſome Innovations ſet up of late by Prelatiſts in their publick Aſſemblies, which are Dangerous to this Church, and manifeſtly contrary to the Conſtant Practice and known Principle thereof, which is, That nothing is to be Admitted in the Worſhip of GOD, but what is preſcribed in the Holy Scriptures. Therefore they Diſcharge the Practice of all ſuch Innovations in Divine Worſhip within this Church, and Miniſters are Required to Inform their People of the Evil thereof.

Nothing to be admitted in the Worſhip of GOD, but what is preſcribed in Scripture.

§ 2. All are to enter the Aſſembly in a grave and ſeemly Manner, take their Seats or Places without Adoration, or Bowing themſelves towards one place or other. If any through Neceſſity be hindered from being preſent at the Beginning, they ought not when they come into the

How the Congregation doth Aſſemble.

the Congregation, to betake themſelves to their private Devotions, but Reverently Compoſe themſelves to joyn with the Aſſembly in that Ordinance of GOD, which is then in hand. Moſt of what is ſaid on this Title, may be found in the Directory.

Their Behaviour in the time of Warſhip.

§ 3. The Congregation being Aſſembled, the Miniſter, after Solemn Calling on them to the Worſhipping of the Great Name of GOD is to begin with Prayer. The publick Worſhip being begun, the People are wholly to attend on it: forbearing to Read any thing, except what the Miniſter is then Reading or Citing: Much more are they to abſtain from all private Whiſperings, Conferences, Salutations, or doing Reverence to any Perſon preſent, or coming in, as alſo from all Gazing, Sleeping, or other Indecent Behaviour.

Why the Word is to be publickly read, and by whom?

§ 4. Reading of the Word in the Congregation, being a part of the publick Worſhip of GOD (wherein we acknowledge our Dependence upon him, and Subjection to him) And one Mean Sanctifyed by Him for the Edifying of His People, is to be performed by the Paſtors and Teachers, and Preachers Licenſed by the Preſbytery thereunto, who ſhould (as *Ezra* and his Companions did *Nehem.* 8. 8.) Read in the Book, in the Law of GOD diſtinctly, and give the Senſe, and cauſe them to Underſtand the Reading.

How much is to be read at a time, and the Order of Reading and Expounding.

§ 5. How Large a Portion is to be Read at once, is left to the Wiſdom and Diſcretion of the Miniſter: But it is Convenient that Ordinarily one Chapter of each Teſtament be Read at every Meeting, and ſometimes more, where the Chapters be ſhort, or the Coherence of the Matter requireth it. It is alſo Requiſite that all the Canonical Books be Read over in Order, that the People may be the better acquainted with the whole Body of the Scriptures, and where the Reading in either Teſtament endeth on one LORD's Day, it is to begin the next: The

more

more frequent Reading of ſuch Scriptures is alſo Commended, as he that Readeth ſhall think beſt for Edification of his Hearers, as the Book of *Pſalms* and ſuch like; and when he ſhall judge it neceſſary to Expound any part of what is Read, that Work is not to begin, until the Reading of the whole *Chapter* or *Pſalm* be ended.

When Lecturing begins and how long to continue, according to old and later Acts.

§ 6. Regard is always to be had to the Time, that neither Preaching nor other Ordinance be ſtraitened or rendered Tedious; Which Rule is to be Obſerved in all other publick Performances, And therefore, by the *Act* of *Aſſembly*, *Feb.* 7th, 1645, for Regulating of that Exerciſe of Reading and Expounding the Scriptures upon the LORD's Day, mentioned in the Directory, they Ordain the Miniſter and People to Repair to the Church half an Hour before that Time, at which ordinarly the Miniſter now entereth to the publick Worſhip; And that that Exerciſe of Reading and Expounding, together with the ordinary Exerciſe of Preaching be perfected and ended at the time, which formerly cloſed the Exerciſe of publick Worſhip. And for Recovering the Old Cuſtom Eſtabliſhed by the Directory, the General Aſſembly 1694, *Seſſ.* 9. Appoints Miniſters to Read and Open to the People, ſome Large and Conſiderable Portion of GOD's Word. And the Diligence of Miniſters in this is to be Enquired into by Preſbyteries at their privy Cenſures, *Aſſem.* 1704, *Seſſ.* 8, and alſo at Parochial Viſitations, *Aſſem.* 1706, *Act* 10.

Preaching, it's Excellency and Subject Matter.

§ 7. Preaching of the Word being the Power of GOD unto Salvation, and one of the Greateſt and moſt Excellent Works belonging to the Miniſtery of the Goſpel, ſhould be ſo performed that the Workman need not be aſhamed, but may Save himſelf and thoſe that hear him. Ordinarily the Subject of his Sermon is to be ſome Text of the Scripture holding forth ſome Principle or Head of Religion, or ſuitable to the ſpecial Occaſion emergent. Or he may go on in ſome Chapter, Pſalm or Book of the Scripture as

he ſhall ſee fit. By the 80*th Art. Cap.* 3*d.* of our Confeſſion of Faith, the Doctrine of the high Myſtery of Predeſtination is to be handled with ſpecial Prudence and Care. And albeit Mr. *Turretine* in his *Inſtit. Theol. Loc.* 4. *Quæſt.* 6. maintains very warrantably, that it ſhould be publickly taught, yet he thinks it a Subject more proper for the Schools than the Pulpits.

Introduction, Sum, and Diviſion of the Text.

§ 8. The Introduction to the Text is to be Brief and Perſpicuous, drawn from the Text it ſelf or Context, or ſome parallel place of Scripture. If the Text be long (as in Hiſtories and Parables ſometimes it muſt be) he is to give a brief Sum of it, if ſhort, a Paraphraſe thereof, if need be; In both looking diligently to the Scope of the Text, and pointing at the chief Heads and Grounds of Doctrines which he is to raiſe from it. In Analyſing and dividing his Text, he is to regard more the Order of Matter than of Words, and neither to burden the Memory of the Hearers in the beginning with too many Members of Diviſion, nor to trouble their Minds with obſcure Terms of Art.

How Doctrines are to be Raiſed, Explained, Illuſtrated and Confirmed.

§ 9. In raiſing Doctrines from the Text, his Care ought to be; 1*ſt*, That the Matter be the Truth of God, 2*ly*, That it be a Truth grounded on or contained in that Text, that the Hearers may diſcern how God teacheth it from thence. 3*ly*, That he chiefly inſiſt upon theſe Doctrines which are principally intended, and make moſt for the Edification of the Hearers. The Doctrine is to be expreſſed in plain Terms, or if any thing in it need Explication, it is to be opened, and the Conſequence alſo from the Text cleared. The parallel Places of Scripture confirming the Doctrine are rather to be plain and pertinent than many; And, if need be, ſomewhat inſiſted upon, and applyed to the Purpoſe in Hand. The Reaſons or Arguments are to be ſolid, and, as much as may be, Convincing. The Illuſtrations, of what kind ſoever, ought to be full of Light, and

ſuch

ſuch as may convey the Truth into the Hearers Hearts with Spiritual Delight.

§ 10. If any Doubt obvious from Scripture or Reaſon, or prejudice of the Hearers, ſeem to ariſe, it is very requiſite to remove it, by reconciling the ſeeming Differences, anſwering the Reaſons, and diſcovering and taking away the Cauſes of Prejudice and Miſtakes. Otherwiſe it is not fit to detain the Hearers with propounding or anſwering vain or wicked Cavils, which as they are endleſs, ſo the propounding and anſwering of them, doth more hinder than promote Edification. *What kind of Doubts and Controverſies are to be raiſed and ſolved.*

§ 11. The Doctrine is to be brought home to ſpecial Uſe by Application to the Hearers, that they may feel the Word of God to be quick and powerful, and a Diſcerner of the Thoughts and Intents of the Heart. In the Uſe of Inſtruction or Information in the Knowledge of ſome Truth, which is a Conſequence from his Doctrine, he may, when convenient, confirm it by a few firm Arguments, from the Text in Hand, and other Places of Scripture, or from the Nature of that common Place of Divinity, whereof that Truth is a Branch. In Confutation of falſe Doctrines, he is neither to raiſe an old Hereſy from the Grave, nor to mention a Blaſphemous Opinion unneceſſarily, but if the People be in danger of an Errour, he is to confute it ſoundly, and endeavour to ſatisfie their Judgments and Conſciences againſt all Objection. In Exhortation to Duties, he is, as he ſeeth Cauſe to teach alſo the Means that help to the performance of them. In Dehortation, Reprehenſion, and Admonition, which requireth ſpecial Wiſdom, He is, as need requires, not only to diſcover the nature and greatneſs of the ſin, with the miſery attending it, but alſo to ſhew the danger the Hearers are in to be overtaken and ſurprized by it, together with the Remedies and beſt way to avoid it. In applying Comfort, whether General againſt all Tentations, or Particular againſt ſome ſpecial Troubles *Doctrines are to be Applyed in Uſes of Inſtruction, Confutation, Exhortation, Reproof, Conſolation and Tryal; And How?*

and Terrours, He is carefully to anſwer ſuch Objections as a troubled Heart and afflicted Spirit may ſuggeſt to the contrary. It is alſo ſometimes requiſite to give ſome Notes of Tryal, which is very profitable, eſpecially when performed by able and experienced Miniſters, with Circumſpection and Prudence, and the Signs clearly grounded on the Holy Scripture, whereby the Hearers may be able to examine themſelves, whether they have attained thoſe Graces, and performed thoſe Duties to which he exhorteth, or be guilty of the Sin reprehended, and in danger of the Judgment threatned, or are ſuch to whom the Conſolations propounded do belong.

The Deſign of this Method.

§ 12. This Method is not preſcribed in the Directory, as neceſſary for every Man, or upon every Text: Nor is it neceſſary to proſecute every Doctrine which lyes in the Text, and ſuch Uſes as are wiſely to be made choiſe of, as by the Miniſter's Reſidence and Converſing with his Flock he findeth moſt needful and ſeaſonable for them; But only it is recommended as a Method which hath in Experience, been found much bleſſed of God, and very helpful for the Peoples Underſtandings and Memories.

Catechetical Doctrine to be preached, and the Nature of Catechizing.

§ 13. Miniſters are to preach Catechetical Doctrine, beſides their ordinary Work of Catechizing, in ſuch manner as they find moſt Conducive to the Edification of their Flocks, by Act of Aſſembly 1695. *Seſſ.* 17. This Work of Catechizing, is a familiar way of Inſtruction or Teaching, when the Schollar Anſwers the Queſtion asked. It is in a plain way to inſtruct thoſe of their Charge in the firſt Principles of the Chriſtian Religion. This was the Apoſtolical way of Teaching the Churches at their firſt Plantation, *Heb.* 5. 12. and 6. 1, 2. 1 *Cor.* 3. 1, 2. This is the Periphraſis of Paſtor and People, which the Holy Ghoſt uſeth, ſetting forth the Reciprocal Relation and Office betwixt them, *Gal.* 6. 6. *Let him that is taught*, or Catechized, *in the Word, communicate unto him that teacheth*, or Catechizeth,

zeth, *in all good things.* CATECHUMENI, was a word uſed by the Primitive Church, to ſignifie ſuch as learned the Principles of Religion, and were not yet Baptized, and ſince, ſuch as are Catechized, but who have not received the Lord's Supper. Theſe *Catechumeni*, were of two Sorts: One Sort was, of thoſe who had not acceſs to Baptiſm till they made publick Profeſſion of their Faith in Jeſus Chriſt, becauſe their Parents were Heathens, and themſelves Strangers to the Chriſtian Doctrine, ſuch were Catechized before Baptiſm. The other Sort of *Catechumeni* was, the Children of profeſſed Believers, who were Baptized when Infants, having a Right to that Seal by virtue of that Promiſe made to Believers and to their Children; Theſe after their Infancy was over, and they had been privately inſtructed in the Principles of the Chriſtian Religion, offered themſelves to publick Catechizing. Both theſe Sorts, after they had made ſuch Proficiency in the Knowledge of Religion, as thereupon they were admitted to the Lord's Table, they got the Name of PERFECTI.

None to teach publickly out of their own Bounds without leave.

§ 14. By the 25*th Article Cap.* 1. *French Church Diſcipline*, the Miniſter of one Pariſh cannot preach in another, without firſt obtaining leave of the Miniſter of that, unleſs in caſe of his abſence. In which caſe it muſt be the *Conſiſtory* that Invites him: And if the Flock be diſperſt by reaſon of Perſecution or other trouble, the Stranger ſhall endeavour to aſſemble the Deacons and Elders, which if he cannot do, he ſhall nevertheleſs be permitted to preach to Re-unite the Flock. And by the 20*th* Canon *Concilii ſexti*, *in* Trullo, *Ne liceat Epiſcopo in alia, quæ ad ſe non pertinet, civitate publice docere; ſi quis autem hoc facere deprehenſus fuerit, ab Epiſcopatu deſiſtat, Presbyteri autem munere fungatur.*

§ 15. Every

Parochial Catechizing is appointed to be Weekly, not so Week-days Sermons.

§ 15. Every Miniſter is ordained to have Weekly Catechizing of ſome part of the Pariſh, and Maſters of Families are to Catechize their Children and ſervants at Home, whereof Account ſhall be taken by the Miniſter and Elders aſſiſting him in the Viſitation of every Family, *vide* Act of Aſſembly *Auguſt* 30. 1639. And by the Act of Aſſembly *July* 30. 1649. the foreſaid Act is renewed. I know no Act for Weekly Sermons, yet Weekly Preaching there is; Miniſters it's true are appointed to preach every Lord's Day, both Before and After-noon, *Aſſem.* 1648. *Seſſ.* 38. But there is none for Week-days Sermons, yet the one is obſerved, and the other too much in Deſuetude. By that Act 1649. Miniſters are ſo to order their Catechetick Queſtions, as thereby, the People preſent may at every Dyet have the chief Heads of Saving Knowledge preſented unto them. And by the ſame Act, every Preſbytery is ordained to take Tryal twice in the Year, whether all the Miniſters be careful to keep Weekly Dyets for Catechizing: And if any be found Negligent therein, they ſhall be admoniſhed for the firſt Fault; And if after ſuch Admonition, they ſhall not amend, the Preſbytery then ſhall rebuke them ſharply: And if after ſuch Rebuke, they ſhall not yet amend, they ſhall be Suſpended. Miniſters of Land-ward Congregations are certainly to be Exempted from this in Seed-time and Harveſt, and the Act is to be ſo underſtood.

Who are to be Examined; How often, & from what Age? With the Uſe of Examination Rolls.

§ 16. All of every Quality are to be Examined of whoſe Knowledge Miniſters are not certain (which clearly ſuppoſeth that a Miniſter being once ſatisfied with a Perſon's Knowledge is not obliged again to Examine him) and young Perſons from the time they are capable of Inſtruction, which it ſeems, hath been thought to be about nine Years of Age, by the M. S. Acts of Aſſembly at *Edinburgh* 1570. But ſee *Aſſem.* 1648. *Seſſ.* 38. among Remedies Eccleſiaſtical, in particular againſt Ignorance. And *Aſſem.* 1646. *Seſſ.* 10.

Remed.

Remed. 9. Miniſters are to have Rolls of their Pariſh, not only for Examination, but for conſidering the ſeveral Diſpoſitions of the People, that accordingly they may be admoniſhed and prayed for by them in ſecret.

Catechiſms Larger and Shorter; Their Uſe in Catechizing.

§ 17. The Larger and Shorter Catechiſms agreed upon by the Aſſembly of Divines at *Weſtminſter*, with Aſſiſtance of Commiſſioners from this Church, are by the Aſſembly 1648. *July* 28. and *Auguſt* 20. approved and appointed Directories, the Larger for Catechizing Proficients in Religion, and the Shorter for Catechizing ſuch as are of weaker Capacity. By the Act of Aſſembly 1649. *Seſſ.* 30. Seſſions are to take Care that in every Family, there be at leaſt one Copy of theſe Catechiſms, Confeſſion of Faith, and Directory for Worſhip.

A, B, C. Catechiſm condemn'd.

§ 18. By the Act of Aſſembly *July* 28 1648. They having found in a little Catechiſm printed at *Edinburgh* 1647. Intituled, *The* A, B, C. *with the Catechiſm*, That is to ſay, *An Inſtruction to be taught and learned of young Children*, very groſs Errours in the Point of Univerſal Redemption, and in the Number of the Sacraments, they do Diſcharge the Selling, Uſing, and Re-printing thereof.

When a Rebuke is to be given at Catechizing.

§ 19. Some Perſons may be Rebuked at the time of Catechizing, who deſerve more than a private Rebuke, and yet need not be brought to publick Repentance, *Aſſem.* 1648. *Seſſ.* 38.

Of Publick Prayers, and the Mind of the Directory about them.

§ 20. The Intention of the Compoſers of our Directory for publick Prayer is Expreſſed towards the end of their Preface. Their own Words are, Our Meaning therein being only that the general Heads, the Senſe and Scope of the Prayers and other parts of publick Worſhip being known to all, there may be a Conſent of all the Churches in theſe things that contain the Subſtance of the Service and Worſhip of God, and the Miniſters may be hereby directed in their Adminiſtrations, to keep like Soundneſs of Doctrine and Prayer, and may, if need be, have ſome Help and Furni-

Furniture; Yet ſo as they become not hereby ſlothful and negligent in ſtirring up the Gifts of CHRIST in them: but that each one by Meditation, by taking heed to himſelf and the Flock of GOD committed to him, and by wiſe Obſerving the ways of Divine Providence, may be careful to furniſh his Heart and Tongue, with further or other Materials for Prayer, as ſhall be needful on all Occaſions.

The preſent Cuſtom of uſing the LORD's Prayer.

§ 21. The Directory for publick Prayer doth Recommend that Prayer which CHRIST taught his Diſciples, to be alſo uſed in the Prayers of the Church: Becauſe it is not only a Pattern of Prayer, but is it ſelf a moſt Comprehenſive Prayer. I do think there are no publick Prayers uſed in our Church, wherein the Petitions in *the LORD's Prayer*, are not expreſſed throughout their Prayers; tho' perhaps neither at the Beginning, or Concluſion, or all at once by way of Form. But if any notwithſtanding, think fit to ſay it likewiſe all at once, the moſt proper Time for that, ſome think, would be immediately before the other Form uſed for the Miniſterial Benediction. *Vid.* § 29. *H. T.*

Of publick Prayers before Sermon, taken out of the Directory for publick Worſhip, agreed unto by the Gen. Aſſembly 1645.

§ 22. After Reading of the Word, and Singing of the *Pſalm*, the LORD is to be Called upon to this Effect, *viz.* To acknowledge our great Sinfulneſs, firſt, by reaſon of Original Sin, which, beſides the Guilt that makes us liable to Everlaſting Damnation, is the Seed of all other Sins, hath Depraved and Poiſoned all the Faculties and Powers of Soul and Body, doth Defile our beſt Actions, and were it not Reſtrained, or our Hearts Renewed by Grace, would break forth into Innumerable Tranſgreſſions, and greateſt Rebellions againſt the LORD, that ever were committed by the vileſt of the Sons of Men. And next, by reaſon of actual Sins, our own ſins, the ſins of Magiſtrates, of Miniſters, and of the whole Nation, unto which we are many ways Acceſſory. Which Sins of ours, receive

ceive many Fearful Aggravations, we having broken all the Commandments of the Holy, Juſt, and Good Law of GOD, doing that which is Forbidden, and leaving undone that which is Enjoyned, and that not only out of Ignorance and Infirmity, but alſo more preſumptuouſly againſt the Light of our Minds, Checks of our Conſciences, and Motions of His own Holy Spirit to the contrary. So that we have no Cloak for our Sin, yea, not only Deſpiſing the Riches of GOD's Goodneſs, Forbearance, and Long-ſuffering, but ſtanding out againſt many Invitations and Offers of Grace in the Goſpel. To Bewail our Blindneſs of Mind, Hardneſs of Heart, Unbelief, Impenitency, Security, Backwardneſs, Barrenneſs, our not endeavouring after Mortification, and Newneſs of Life, nor after the Exerciſe of Godlineſs in the Power thereof, and that the Beſt of us have not walked ſo ſtedfaſtly with GOD, kept our Garments ſo Unſpotted, nor been ſo Zealous of His Glory, and the Good of others as we ought, and to Mourn over ſuch other Sins as the Congregation is particularly Guilty of, notwithſtanding the manifold and great Mercies of our GOD, the Love of CHRIST, the Light of the Goſpel, and Reformation of Religion, our own Purpoſes, Promiſes, Vows, Solemn Covenants, and other Obligations to the contrary. To Acknowledge and Confeſs that as we are Convinced of our Guilt, ſo out of a deep Senſe thereof, we judge our ſelves Unworthy of the ſmalleſt Benefits, moſt worthy of GOD's Fierceſt Wrath inflicted upon the moſt Rebellious Sinners, and that he might juſtly take His Kingdom and Goſpel from us, plague us with all ſorts of Spiritual and Temporal Judgments in this Life; and after caſt us into outer Darkneſs. Notwithſtanding all which, to draw near to the Throne of Grace, Incouraging our ſelves with Hopes of a gracious Anſwer of our Prayers in the Riches and Alſufficiency of that only one Oblation, The Satisfaction and Interceſſion

of the LORD JESUS CHRIST, at the Right Hand of His Father and our Father, and in Confidence of the Exceeding Great and Precious Promiſes of Mercy and Grace in the New Covenant, through the ſame Mediator thereof, to deprecate the Heavy Wrath and Curſe of GOD, which we are not able to avoid or bear, and humbly and earneſtly to ſupplicate for Mercy in the free and full Remiſſion of our Sins, and that only for the bitter Sufferings and precious Merits of that our only Saviour JESUS CHRIST. That the LORD would vouchſafe to ſhed abroad His Love in our Hearts by the Holy Ghoſt; Seal unto us by the ſame Spirit of Adoption, the full Aſſurance of our Pardon and Reconciliation; Comfort all that Mourn in Zion, ſpeak Peace to the Wounded and Troubled in Spirit, and bind up the Broken Hearted: And as for ſecure and preſumptuous Sinners, that He would open their Eyes, convince their Conſciences, and turn them from Darkneſs unto Light. To Pray for Sanctification by His Spirit, the Mortification of Sin dwelling in, and many times Tyranizing over us, the Quickning of our dead Spirits, with the Life of GOD in CHRIST, Grace to enable us for all Duties of our Converſation, and Callings towards GOD and Men, Strength againſt Temptations, the ſanctifyed Uſe of Bleſſings and Croſſes, and Perſeverance in Faith and Obedience unto the End. To Pray for the propagation of the Goſpel and Kingdom of CHRIST to all Nations, for the Converſion of the *Jews*, and the Fullneſs of the *Gentiles*, the Fall of *Antichriſt*, and the Haſtening of the ſecond Coming of Our LORD: for the Deliverance of the Diſtreſſed Churches abroad, from the Tyranny of the Antichriſtian Faction, and from the Cruel Oppreſſions and Blaſphemies of the *Turk*; For the Bleſſing of GOD upon all the Reformed Churches, eſpecially upon the Churches and Kingdoms of *Scotland*, *England* and *Ireland*, more particularly for that Church and Kingdom whereof

whereof we are Members, that therein GOD would Eſtabliſh Peace and Truth, the Purity of all His Ordinances, and the Power of Godlineſs, prevent and Remove Hereſy, Schiſm, Profaneneſs, Superſtition, Security and Unfruitfulneſs under the Means of Grace, Heal all our Rents and Diviſions, and Preſerve us from Breach of our Solemn Covenant. Prayers are to be put up for all in Supreme Authority, and thoſe in Subordinate Authority to them, 1 *Tim.* 2. 1, 2, 4. Which Prayers are to be directed by their Circumſtances. We are to Pray for all Paſtors and Teachers, that GOD would fill them with His Spirit, and make them Powerful in their Miniſtry, and give unto all His People Paſtors according to His own Heart; For the Univerſities and Schools, and Religious Seminaries for Church and Common-Wealth, that they may flouriſh more in Learning and Piety, for the particular City or Congregation, that GOD would pour out a Bleſſing upon the Miniſtry of the Word, Sacraments and Diſcipline, upon the Civil Government, and all the Families and Perſons therein; For Mercy to the Afflicted in any inward or outward Diſtreſs; For Seaſonable Weather, and Fruitful Seaſons, as Time may require; For Averting Judgments that we either Feel or Fear, or are liable unto, as Famine, Sword, Peſtilence, and ſuch like. To pray earneſtly for His Grace and Effectual Aſſiſtance to the Sanctification of His Holy Sabbath, the LORD's Day, in all the Duties thereof, that the LORD who teacheth to profite, would graciouſly pleaſe to pour out the Spirit of Grace, together with the outward Means thereof, cauſing us to attain ſuch a Meaſure of the Excellency of the Knowledge of CHRIST JESUS our LORD that we may account all things but as Droſs, in compariſon of Him, and that we taſting the firſt-fruits of the Glory to come, may long for a more full and perfect Communion with Him. That GOD would in ſpecial manner furniſh His Servant

now called to Diſpenſe the Bread of Life unto His Houſehold, with Wiſdom, Fidelity, Zeal and Utterance, that he may divide the Word of GOD aright, to every one his Portion, in Evidence and Demonſtration of the Spirit and Power, and that the LORD would Circumciſe the Ears and Hearts of the Hearers to hear in Love, and receive with Meekneſs the Ingrafted Word, ſtrengthen them againſt the Temptations of Satan, the Cares of the World, the Hardneſs of their own Hearts, and whatſoever elſe may hinder their profitable and ſaving Hearing.

Publick Prayer after Sermon.

§ 23. The Sermon being ended, the Miniſter is to give Thanks for the Great Love of GOD in ſending of his Son JESUS CHRIST unto us, for the Communication of His Holy Spirit, for the Light and Liberty of the glorious Goſpel, for the Admirable Goodneſs of GOD, in freeing the Land from Antichriſtian Darkneſs and Tyranny, for the Reformation of Religion, and many Temporal Bleſſings: And to Pray for the Continuance of the Goſpel, and all Ordinances thereof in their Purity, Power and Liberty: and to turn ſome of the moſt uſeful Heads of the Sermon into ſome few Petitions, and to Pray that it may abide in the Heart, and bring forth Fruit in the Life and Converſation. To pray for Preparation for Death and Judgment, and a Watching for the Coming of our LORD JESUS CHRIST; To Intreat of GOD the Forgiveneſs of the Iniquity of our Holy Things, and the Acceptation of our Spiritual Sacrifice, through the Merit and Mediation of our Great High Prieſt and Saviour, the LORD JESUS CHRIST.

The meaning of the Directory.

§ 24. Notwithſtanding of the Above-Directory for publick Prayers, the Miniſter may (as in prudence he ſhall ſee meet) make uſe of ſome part of theſe Petitions after the Sermon, or he may offer up to GOD ſome of the Thankſgivings in his Prayer before Sermon.

§ 25. By

§ 25. By the *Act* of *Aſſembly*, *Auguſt* 6. 1649, Their Commiſſion being Impowered to Emit the Paraphraſe of the *Pſalms*, and Eſtabliſh the ſame for publick Uſe, they did accordingly Conclude and Eſtabliſh the Paraphraſe of the *Pſalms* in Meeter, now uſed in this Church, after the Preſbyteries had ſent their Animadverſions thereupon. *Of Singing of Pſalms, and the Authority of the preſent Paraphraſe.*

§ 26. It was the Antient Practice of the Church, as it is yet of ſome Reformed Churches abroad, for the Miniſter or Precentor to Read over as much of the *Pſalm* in Meeter together, as was intended to be Sung at once, and then the Harmony and Melody followed without Interruption, and People did either Learn to Read, or get moſt of the *Pſalms* by Heart; But afterwards it being found, that when a New Paraphraſe of the *Pſalms* was Appointed, it could not at firſt be ſo Eaſy for the People to follow, then became it Cuſtomary, that each Line was Read by it ſelf, and then Sung. But now having for ſo long time made uſe of this Paraphraſe, and the Number of theſe who can Read being Increaſed, it is but Reaſonable that the Antient Cuſtom ſhould be Revived, according to what is inſinuated by the Directory on this Subject. And that ſuch who cannot Read may know what *Pſalms* to get by Heart, let ſuch be Affixed on ſome conſpicuous part of the Pulpit as are to be Sung in publick at next Meeting of the Congregation. It were to be wiſhed that Maſters of Families would path the way for the more Eaſy Introducing of our former Practice by Reviving and Obſerving the ſame in their Family Worſhip. *Singing is not to be interrupted by reading of the Line.*

§ 27, In the 38 *Seſſ.* of *Aſſem.* 1648. There is an Act for Examining the *Labours* of Mr. *Zachary Boyd* upon the other *Scripture-Songs*. And by *Aſſem.* 1706, *Seſſ.* 4. The Scripture-Songs by Mr. *Patrick Sympſon* Miniſter at *Renfrew*, are Recommended to be uſed in private Families: And in Order to prepare them for the publick Uſe of the Church, this was Renewed in *Aſſem.* 1707. And by the *Scripture Songs to be uſed in Families, and prepared for publick Uſe.*

the 15 *Act* of *Aſſembly* 1708, Their Commiſſion is Inſtructed and Appointed to Conſider the Printed Verſion of the Scripture Songs, with the Remarks of Preſbyteries thereupon, and after Examination thereof, they are Authorized and Impowered to Conclude and Emit the ſame, for the publick uſe of the Church: The preſent Verſion of the *Pſalms* having been Ordered in the ſame manner in the Year 1649.

The Deſign and Intention of the Soul in Singing.

§ 28. Though a Believer be Afflicted, yet he is to Sing ſince it is ſuch a Duty as Prayer is, tendeth to Cheer the Souls Diſpoſition, and to Sweeten and Mitigate the Croſs unto it. Complaints of our Sin and Failings may be Mournful Songs. And becauſe GOD hath Redeemed, Pardoned and Comforted others; Therefore we are to Rejoice in the Hope and Deſires of the ſame to our ſelves. Though the Subject of a Song doth not always quadrate with our Caſe, yet unto a judicious attentive Perſon there is always ſome Attribute of GOD, ſome Providence or Word of His, in that very Subject to be praiſed. In the Imprecatory *Pſalms*, we ſing to the Praiſe of Divine Juſtice, againſt the Malicious Enemies of His Church, like unto theſe that the *Pſalmiſt* did aim againſt.

Miniſterial Bencdiction.

§ 29. The Miniſter uſeth to Diſmiſs the Congregation with a Solemn Bleſſing or Prayer to GOD for them, which ordinarly is in theſe or the like Words, 2 *Cor.* 13. 14. *The Grace of the Lord Jeſus Chriſt, the Love of God the Father, and the Communion of the Holy Ghoſt be with you all*, AMEN; But when Probationers for the Miniſtry are Preaching, they uſe to pronounce the Bleſſing with this Variation, In ſtead of *be with YOU*, they ſay, *be with US*. And the Moderators of General Aſſemblies Obſerve the ſame Stile in pronouncing of the Bleſſing at their Diſſolution. Yet ſeing no Miniſter of a Congregation, doeth put up that publick Prayer alone, it would therefore ſeem, it ſhould always run in the Ordinar Stile of other Congregational Petitions, *viz. Be with Us.* § 30.

§ 30. Miniſters their Bowing in the Pulpit, though a Lawful Cuſtom, is hereafter to be laid aſide, for Satisfaction of the Deſires of the Synod of *England*, *February* 7th 1645. *Bowing in the Pulpit to be laid aſide.*

TITLE II.

Of Family Worſhip.

§ 1. BY Act of Aſſembly *Auguſt* 24. 1647. Revived Aſſembly 1694. They Approve of the following Rules and Directions, for private and ſecret Worſhip, and mutual Edification, for cheriſhing Piety, maintaining Unity, and avoiding Schiſm and Diviſion. And Miniſters and Ruling Elders are required to make diligent Search in the Congregation, whether there be among them any Family which neglects to perform Family Worſhip; And if any ſuch be found, the Head of the Family is firſt to be admoniſhed privately, to amend his Fault, and in caſe of his continuance therein, he is to be gravely Reproved by the Seſſion: After which Reproof, if he be found ſtill to neglect Family Worſhip, let him be ſuſpended from the Lord's Supper. *Habitual Neglecters of Family Worſhip Cenſurable by Suſpenſion from the Lord's Table.*

§ 2. The Head of every Family is to have a Care, that both themſelves and all within their Charge be daily diligent in performing of ſecret Worſhip, and be given to Prayer and Meditation. *Secret Worſhip to be performed.*

§ 3. The ordinary Duties of Families conveened for the Exerciſe of Piety are theſe, *Firſt*, Prayer and Praiſes; *Next*, Reading of the Scriptures, with Catechizing in a plain way together, with Godly Conferences, as alſo Admonitions and Rebukes upon juſt Reaſons. *What Family Worſhip is.*

§ 4. The

Reading of the Scriptures to be Improved in Family-Conference.

§ 4. The Master of a Family though of the best Qualifications, is not to take on him to interpret the Scriptures; Yet, it is commendable, that, by way of Conference, they make some good Use of what hath been read and heard. As for Example, if any Sin be reproved in the Word read, Use may be made thereof, to make all the Family Circumspect and Watchful against the same; Or, if any Judgment be threatned, or mentioned to have been inflicted in that Portion of Scripture which is read, Use may be made, to make all the Family fear, lest the same or a worse Judgment befal them, unless they beware of the Sins that procured it. And finally, if any Duty be required, or Comfort held forth in a Promise, Use may be made to stirr up themselves to implore Christ for Strength to enable them for doing commanded Duty, and to apply the offered Comfort: In all which the Master of the Family is to have the chief Hand, and any Member of the Family may propound a Question or Doubt for Resolution.

Chaplains their Use and Abuse.

§ 5. Persons of Quality are allowed to entertain One approved by the Presbytery for performing the Worship of God in their Families. And in other Families where the Head is unfit, One constantly residing in the Family, and approved by the Minister and Session may be imployed in that Service. Yet it was never the Mind of the Church, that Persons of Quality should lay their Family Worship intirely upon their Chaplains, and never perform it in their own Persons, as appears from the solemn acknowledgement of Sins, where they confess, The Ignorance of GOD and of His Son prevails exceedingly in the Land; The greatest part of Masters of Families amongst Noblemen, Barons, Gentlemen, Burgesses and Commons, neglect to seek GOD in their Families, and to endeavour the Reformation thereof; And albeit it hath been much pressed, yet few of our Nobles and great Ones ever to this Day could be perswaded to perform Family-duties themselves, and in their own persons,

Perſons, which makes ſo neceſſary and uſeful a Duty to be miſ-regarded by others of Inferiour Rank; Nay, many of the Nobility, Gentry and Barons, who ſhould have been Examples of Godlineſs and ſober Walking unto others, have been Ring-leaders of Exceſs and Rioting.

No meer Stranger to perform Family Worſhip.

§ 6. Conſidering that perſons aiming at Diviſion may be ready to creep into Houſes, and lead Captive ſilly and unſtable Souls: For preventing whereof, no Idler who hath no particular Calling, or Vagrant Perſon, under pretence of a Calling, is to be ſuffered to perform Worſhip in Families. The not obſerving of this Direction, hath been of ſad Conſequence to ſome Families in this Land in the late times. Neither are Perſons from divers Families, to be Invited or admitted into Family-Worſhip, unleſs it be theſe who are lodged with them or at Meat, or otherwiſe with them upon ſome lawful Occaſion.

Set Forms for Prayer in caſes of neceſſity allowed.

§ 7. So many as can conceive Prayer, ought to make uſe of that Gift of GOD; albeit thoſe who are rude and weaker may begin with a ſet Form of Prayer, but ſo as they be not ſluggiſh in ſtirring up in themſelves the Spirit of Prayer, which is given to all the Children of GOD in ſome meaſure.

Materials for Family Prayer.

§ 8. Let them confeſs to GOD how unworthy they are to come in His Preſence, and how unfit to Worſhip His Majeſty, and therefore earneſtly ask of GOD the Spirit of Prayer. They are to confeſs their Sins and the Sins of the Family, accuſing, judging and condemning themſelves for them, till they bring their Souls to ſome meaſure of true Humiliation; They are to pour out their Souls to GOD in the Name of Chriſt, by the Spirit, for Forgiveneſs of Sins, for Grace to Repent, to Believe, and to live Soberly, Righteouſly and Godly, and that they may ſerve GOD with Joy and Delight walking before him; They are to give Thanks to GOD for His many Mercies to His People and to themſelves, and eſpecially for His Love in Chriſt,

and for the Light of the Goſpel: They are to pray for ſuch particular Benefits, Spiritual and Temporal as they ſtand in need of for the time: They ought to pray for the Church of Chriſt in General, for all the Reformed Churches, and for this Church in particular, and for all that ſuffer for the Name of Chriſt, for all Superiors, for the Queen's Majeſty, and Inferiour Magiſtrates: For the Magiſtrates, Miniſters, and whole Body of the Congregation: And for their Neighbours abſent about their lawful Affairs, and for theſe that are at Home. The Prayer may be cloſed with an earneſt Deſire that GOD may be glorified in the coming of the Kingdom of His Son, and that what they have asked according to His Will may be done.

Faſts and Thanksgiving Days in Families.

§ 9. Extraordinary Duties both of Humiliation and Thankſgiving are to be carefully performed in Families, when the LORD by extraordinary Occaſions, private or publick, calleth for them.

Travellers are to Worſhip together.

§ 10. Perſons of divers Families being Abroad upon their particular Vocations, or any neceſſary Occaſions, are to take care that the Duties of Prayer and Thankſgiving be performed by ſuch as the Company ſhall judge fitteſt.

Church Office-Bearers to be depoſed who neglect Family Worſhip.

§ 11. By an Act of Aſſembly 1697. *Seſſ.* 5. ſuch Elders and Deacons as obſtinately refuſe or neglect Family-worſhip by themſelves or others appointed for that End, are to be removed from their Office.

TITLE III.

Of Baptiſm.

What Baptiſm is.

§ 1. BAptiſm is a Sacrament of the New Teſtament, wherein Chriſt hath ordained the waſhing with Water in the Name of the Father, Son, and Holy Ghoſt, to be a Sign and Seal of Ingrafting into Himſelf,

ſelf, and of partaking of the Benefits of the Covenant of Grace, and whereby the Parties Baptized are ſolemnly admitted into the viſible Church, and enter into an open and profeſſed Engagement to be Only and Wholly the LORDS.

And to whom to be adminiſtred.

§ 2. The viſible Church which is Catholick or Univerſal under the Goſpel, conſiſts of all theſe throughout the World, that profeſs the true Religion, together with their Children: And Baptiſm is not to be adminiſtred to any that are out of the ſame, they being Strangers to the Covenant of Promiſe, till they profeſs their Faith in Chriſt, and Obedience to Him: But Infants deſcending from Parents, either both or but one of them, profeſſing Faith in Chriſt and Obedience to Him, are in that reſpect within the Covenant, and to be Baptized. The Directory for Worſhip ſays, that Children of profeſſing Parents are Chriſtians and federally Holy before Baptiſm, and therefore are they Baptized: For their Baptiſm ſuppoſeth them to be Church Members, and doth not make or conſtitute them ſuch. And therefore the practice of denying Burial among Chriſtians unto Children unbaptized is unagreeable to this Doctrine, and is moſt unwarrantable: If we conſider, that the Sacraments are Ordinances to be adminiſtred in the Church, and to the Church, they neceſſarily ſuppoſe the Pre-exiſtence of a Church, and the Child's previous Right to that Seal.

The Engagement of Parents in Baptiſm binds their Children.

§ 3. By that Covenant whereof Baptiſm is a Seal, the LORD promiſeth to be our GOD, and we are in His promiſed Strength to engage to be His People, which Engagement, tho' Chriſtian Infants be not capable to come under of themſelves, formally; Yet by their Parents vowing in their name and ſtead, they do thereby become abſolutely bound to the performance thereof, becauſe their Obligation and Duty to be the LORD's, were ſuppoſed, and previous unto their being Baptized.

When another Sponſor than the Parent is neceſſary.

§ 4. When both Parents are dead, or neceſſarily abſent, another Sponſor is to be taken; Or, when they are Scan-

dalous and Erroneous, and thereby give ground to think they are none of Chriſts, and for which they may merit the higheſt Cenſures of the Church, if not prevented by Evidences of their ſincere Repentance: In that caſe, to teſtifie that it doth not appear that the Children have any Right unto the Privilege of that Sealing Ordinance through their immediate Parents; And that they may notwithſtanding have a Right thereto by their more remote Parents, it is neceſſary that a Sponſor preſent the Children, and engage for them. The Parent is to be required to provide ſome fit Perſon, and, if it can be, one related as a Parent to the Child ſhould be Sponſor. Yet it ſeems Ignorant Parents are to be admitted to preſent their Children: For by Act of Aſſembly 1648. *Seſſ.* 38. *Article* 3. of Domeſtick Remedies of the Sins of the Land, this is one, That Perſons to be married, and who have Children to be Baptized, who are very rude and ignorant, be ſtirred up and exhorted, as at all times, ſo eſpecially at that time, to attain ſome meaſure of Chriſtian Knowledge in the Grounds of Religion, that they may give to the Miniſter, before the Elder of the Bounds where they live, ſome account of their Knowledge, that ſo they may the better teach their Family and train up their Children.

When the Seſſion ſhould be Sponſor.

§ 5. In caſe of Children Expoſed, whoſe Baptiſm, after Inquiry, cannot be known, the Seſſion is to order the preſenting of the Child to Baptiſm, and the Seſſion it ſelf is to ſee to the Chriſtian Education of the Child: As alſo, when ſcandalous Parents cannot prevail with any fit Perſon, or rather Relation, to preſent the Child in their name, or when the Relations of deceaſed Parents refuſe to become their Sponſors: The Seſſion then is to order as is ſaid. The Magiſtrate is to take care that Expoſed Infants be maintained, by laying the Expences thereof upon the Pariſh proportionally. By the 84. *Canon. Con.* 6. *In* Trullo, *Canonicas patrum leges ſequentes, de Infantibus quoque*

De-

Decernimus, Quoties non inveniuntur firmi teſtes qui eos abſque ulla Dubitatione Baptizatos eſſe dicant, nec ipſi, propter ætatem de ſibi tradito Myſterio aptè reſpondere poſſint, debere abſque ulla offenſione Baptizari.

Baptiſm not to be Impoſed. The Age and Qualificatipns of a Sponſor.

§ 6. By the 4. *Article, Cap.* 11. *of the French Church Diſcipline*, the Children of Fathers and Mothers of the *Romiſh* Church, and of Excommunicated Perſons, cannot be Admi ted in the Church, tho' they were preſented by Believing Sponſors, unleſs their Fathers and Mothers Conſent to it, and Deſire it, in quiting and yeilding up to the Sponſors their Right as to Inſtructing them: For Baptiſm being a Privilege and Benefite, it is not to be Impoſed, nor Children Baptized againſt their Parents will, into a Communion whereof they are not Members; Hence the Cuſtom of the Church, at Adminiſtring of Baptiſm, is, to aſk the Parent or Sponſor, if they preſent that Child to be Baptized, to which they Declare their Willingneſs by their Anſwering Affirmatively. By the 10th *Act* of the ſaid 11. *Chapter*, Theſe who preſent Children to be Baptized, muſt be, at leaſt, Fourteen Years of Age, having received the Sacrament of the LORD's Supper, and if they have not, that they Promiſe Faithfully to uſe their Endeavours to prepare for it.

The Uſe, End, and Form of Teſtimonials.

§ 7. When ſingle Perſons or Families Remove unto other Congregations, they cannot Regularly there be Admitted unto the Benefit of the Sacraments for themſelves or Children, till they produce a Declaration of the Church from which they came, Teſtifying them to be free of any known Scandal, otherways theſe Holy Things may be profaned, contrary unto that Church Practice and Precept, *Sacra Sacris*, of which Teſtimonials there ſhould a Regiſter be kept, and they run in this Form, ''Theſe are to 'Teſtify, that the Bearer hereof hath Lived in this 'Pariſh of preceeding laſt by paſt. During 'which Space he Behaved himſelf Civilly and Honeſtly, 'free

'free of all Church Cenſure, or publick Scandal known 'to us. This given by Command of the Church Seſſion 'of the ſaid Pariſh. At the day of 'Years, By A. B. *Seſſ. Clerk.*

Their Import, and how and why different from Teſtimonials in order to the LORD's Supper.

§ 8. This Teſtimonial Imports, that the Perſon Atteſted is not *per famam clamoſam*, or notarly Scandalous, through Errour or Immorality; But it doth not ſuppoſe him to have a competent meaſure of Knowledge, for that is left to the Tryal and Enquiry of the Church, to which he ſeeks to be added as a Member: Therefore their Judgment is never Anticipate by any ſuch Clauſe, unleſs in Teſtimonials for Perſons deſiring the Benefite of the LORD's Supper in another Pariſh, where the Paſtor thereof cannot then get time to Examine all Strangers. 'Tis true, when Mens Lives and Meaſure of Knowledge are generally believed to be Good and Competent, this Order as to ſuch, may be Diſpenſed with, yet it were to be Wiſhed that even thoſe would Obſerve it, and not give Occaſion to others, not ſo Good or Knowing, to be Angry, when they are Reſtricted or Obliged unto it. *Vid. Part* 3. *Tit.* 20. § 3.

Form of Baptiſmal Engagement.

§ 9. In the Baptiſmal Engagment the Parent or Sponſor, is, in Name of the Child, to Renounce the Devil and all his Works, the vain Pomp and Glory of this wicked World, and all the ſinful Luſts of the Fleſh. He is to Promiſe to Bring up the Child in the Knowledge of the Grounds of the Chriſtian Religion, as they are contained in the Holy Scriptures of the Old and New Teſtament: And laſtly, He is to Bring up the Child in that Holy Life and Practice which GOD hath Commanded in His Word. The Engagments to be given in Name of Children at Baptiſm, ſhould be Expreſt in theſe or the like general Terms, conform to the Directory for Worſhip, Approven by the General Aſſembly, *Feb.* 7. 1645. The Due Obſervation whereof is ſeriouſly Recommended by the 10th *Act* of *Aſſem.* 1705.

§ 10. The

§ 10. The Sacrament of Baptiſm is to be Adminiſtrate in the Face of the Congregation after Sermon, and before pronouncing of the Bleſſing, (*See Act of Aſſem. Feb.* 7. 1645.) The Child to be Baptized, after Notice given to the Miniſter the Day before, is to be preſented, the Paſtor remaining in the ſame place where he hath Preached, and having Water provided in a Large Baſon ; He is before Baptiſm to uſe ſome Words of Inſtruction, touching the Author, Inſtitution, Nature, Uſe, and End of this Sacrament : He is alſo to Admoniſh all that are preſent to Repent of their Sins againſt their Covenant with GOD, and to Improve and make the Right Uſe of their Baptiſm : Next, the Parent, or Sponſor, is to be Exhorted to Order his Converſation aright, and walk Circumſpectly, when he is to be Engaged in the Words of the Form above. This being done, Prayer is alſo to be joyned with the Word of Inſtitution, for Sanctifying the Water to this Spiritual Uſe. The Prayer is to this or the like Effect, That the LORD, who hath not left us as Strangers without the Covenant of Promiſe, but called us to the Privileges of His Ordinances, would Graciouſly Vouchſafe to Sanctify & Bleſs His own Ordinance of Baptiſm at this time : That He would join the inward Baptiſm of His Spirit with the outward Baptiſm of Water ; Make this Baptiſm to this Infant a Seal of Adoption, Regeneration, and Eternal Life, and of all other Promiſes of the Covenant of Grace ; That the Child may be planted in the Likeneſs of the Death and Reſurrection of CHRIST, and that the Body of Sin being Deſtroyed in him, he may Serve GOD in Newneſs of Life all his Days. Then the Miniſter is to Demand the Name of the Child, which being Told him, He is to ſay (calling the Child by his Name) *I BAPTISE THEE In The NAME Of The FATHER, Of The SON, And Of The HOLY GHOST.* As he pronounceth theſe Words, he is to Baptize the Child with Water,

The Form of Miniſtration of Baptiſm and the Prayer.

Water, which for the manner of doing, it is not only Lawful but Sufficient, and moſt Expedient, to be by Pouring or Sprinkling of the Water on the Face of the Child, without adding any other Ceremony. This done, He is to give Thanks and Pray to this or the like purpoſe; Acknowledging with all Thankfulneſs, that the LORD is True and Faithful in keeping Covenant and Mercy, that He is Good and Gracious, not only that he Numbereth us among his Saints, but is pleaſed alſo to beſtow upon our Children this ſingular Token and Badge of His Love in CHRIST; That in his Truth and ſpecial Providence, he daily bringeth ſome into the Boſom of his Church, to be Partakers of His Ineſtimable Benefites purchaſed by the Blood of His Dear Son for the Continuance and Increaſe of His Church; And praying that the LORD would ſtill continue and daily confirm more and more this His unſpeakable Favour: That He would Receive the Infant now Baptized, and Solemnly entered into the Houſehold of Faith, into His Fatherly Tuition and Defence, and Remember him with the Favour He ſheweth unto His People: That if he ſhall be taken out of this Life in his Infancy, the LORD, who is Rich in Mercy, would be pleaſed to Receive him up into Glory, and if he Live and attain the Years of Diſcretion, that the LORD would ſo Teach him by his Word and Spirit, and make his Baptiſm Effectual to him, and ſo Uphold him by His Divine Power and Grace, that by Faith he may prevail againſt the Devil, the World and the Fleſh: till in the End he Obtain a full and final Victory, and ſo be kept by the Power of GOD through Faith unto Salvation, through JESUS CHRIST Our LORD.

Miniſters are to Reject Indecent Names to Children.

§ 11. By the 14th *Article*, *Chap.* 11. of the *French* Church Diſcipline, Miniſters ſhall Reject Names given to Children, that ſavour of antient Paganiſm, ſuch as *Diana*, and the like; and the Names Attributed to GOD, ſuch

as

as *Emmanuel*, and the like, but the Names of Holy Men and Women in Scripture are to be choſen.

§ 12. By the 10th *Act* of *Aſſem.* 1690. They Conſidering, that the Parties Receiving the Sacraments, are Solemnly Devoted and Engaged to GOD before Angels and Men, and are Solemnly Received as Members of the Church, and do entertain Communion with Her: And that by former Acts, *viz. December* 10. 1638. and *Feb.* 7. 1645. The private Uſe of them hath been Condemned: As alſo, that by allowing the private Uſe of the ſame in pretended Caſes of Neceſſity, the Superſtitious Opinion is Nouriſhed, that they are neceſſary unto Salvation, not only as Commanded Duties, but as Means without which Salvation cannot be attained. Therefore they Diſcharge the Adminiſtration of the LORD's Supper to Sick Perſons in their Houſes, and all other Uſe of the ſame, except in the publick Aſſemblies of the Church. And alſo, they Diſcharge the Adminiſtration of Baptiſm in private, that is, in any place, or at any time, when the Congregation is not Orderly called together to wait on the Diſpenſing of the Word. Which is agreeable to the 6th *Article*, *Chap.* 11. of the *French* Church Diſcipline, and not to be Diſpenſed with, except in Times of Perſecution. And when a Child is Baptized in a private Houſe, as is uſed in *England*; In that caſe the Miniſter is to Certify the Congregation to which the Child belongs, that the ſame was Baptized by him, at ſuch a time, and in ſuch a place before divers Witneſſes. By the 31. *Can. Conc.* 6. *in* Trullo: *Clericos qui in Oratoriis quæ ſunt intra domos ſacra faciunt vel Baptizant hoc illius loci Epiſcopi ſententia facere debere, decernimus. Quare ſi quis Clericus hoc non ſic ſervaverit, deponatur.*

Private Uſe of Sacraments Condemned.

§ 13. There is a Regiſter to be kept of the Names of all Baptized, and of their Parents Names and Deſignations, and of the time of their Baptiſm, and of the Names of the

Regiſter of Baptiſm.

Witneſſes thereto. And of all Illegitimate Children their Names, and thoſe of their Parents ſhall be likewiſe Inſert: But of ſuch it is only ſaid, That they are not born in Lawful Marriage. When it is an Inceſtuous Child, it ſhall ſuffice to Name the Mother, with the Preſenter of the Child, that the Remembrance of ſo Hainous a Sin may be Extinguiſhed. This is conform to the 19th *Article* of the foreſaid 11. *Chapter*.

Baptiſm to be but once Adminiſtred.

§ 14. Baptiſm is not to be Adminiſtred but once unto any Perſon. It is not the practice of the Reformed Churches to Re-baptize thoſe who were Baptized by the Popiſh Clergy: For they Baptize with Water in the Name of the Father, Son, and Holy Ghoſt as we do. But *Quakers*, and others, who want this External Seal of the Covenant of Grace, though ſuch ſhould make Profeſſion of the true Faith, that Sacrament of Baptiſm doth remain to be Adminiſtred unto them, before they or their Children can enjoy the Privileges of Church Members.

He who Baptizeth muſt be Ordained and Lawfully Called.

§ 15. Neither of the Sacraments may be Diſpenſed by any, but by a Miniſter of the Word Lawfully Ordained, ſaith our *Confeſſion of Faith*, *Cap.* 27. *Art.* 4. And Perſons are to be Baptized by a Miniſter of the Goſpel lawfully called thereunto, according to *Art.* 2. *Cap.* 28. Our Law makes Infeftments Void and Null, where they are not given by ſuch as it Appoints and Authorizeth to give them: Thus are all Infeftments in Royal Burghs, not given by ſome of the Magiſtrates or Clerks thereof. Yet Baptiſm, when it is Adminiſtred by a Perſon, whoſe Ordination and Call is not agreeable to the Principles, Conſtitutions and Practice of this Church, the Eſſentials of the Sacrament being Obſerved, that Baptiſm is Eſteemed as Valid, tho' not as Lawful. And although the Reformed Churches, (ſo far as I can learn) would Inflict the higheſt Cenſure upon Women or Laicks, as Profaners and Mockers of the Holy Sacraments, if they preſumed to Diſpenſe them:

them: and would not have the leaſt Scruple to Baptize thoſe on whom they had wickedly Uſurped a Power to Impoſe a Mock of it; Yet I find they have Declined to Determine ſo clearly in the caſe of Re-baptizing of theſe who were Baptized by Depoſed Miniſters: Which, I think, doth not proceed ſo much from the want of a parity of Reaſon, as it doth from the Offence, which may ſometimes be taken by a great part of a Church, who do not underſtand, or are not ſatisfyed with the Grounds of their Depoſition, or perhaps may be altogether Ignorant of their being Depoſed. But when a Depoſed Miniſter hath ſo little Intereſt, and ſo few Followers, that he is Eſteemed by moſt, yea by a vaſt Majority, to be Lawfully Depoſed: In that Caſe it might give Offence, not to Rebaptize a Child who was ſo Unlawfully Baptized.

TITLE IV.

Of the LORD's Supper.

§ 1. THE LORD's Supper, ſo called from the time of its Inſtitution and firſt Celebration, is a Sacrament of the New Teſtament, wherein by giving and receiving Bread and Wine, according to the Appointment of JESUS CHRIST, His Death is ſhewed forth, and they that Worthily Communicate, not after a Corporal and Carnal manner, but by Faith, feed upon His Body and Blood, to their Spiritual Nouriſhment and Growth in Grace, have their Union and Communion with Him Confirmed, Teſtify and Renew their Thankfulneſs and Engagements to GOD, and their mutual Love and *What the LORD's Supper is.*

Fellowſhip each with other, as Members of the ſame Myſtical Body.

Who may be Admitted thereto, and who not?

§ 2. Theſe who are to be Admitted to this Sacrament, muſt be found to have a Competent Knowledge of the Fundamentals of the Chriſtian Religion, and to be of ſuch an Inoffenſive Walk and Converſation, both towards GOD and their Neighbours, that they are not known to be Guilty of any Scandal that Meriteth Church-Cenſure. By the 12. *Chap.* of the *French* Church Diſcipline *Art.* 2. Perſons ſhall not be Admitted to the LORD's Supper, till they be above Twelve Years of Age. But I'm ſure, if Children at Nine Years of Age can Expreſs themſelves Piouſly and Knowingly, ſhewing that they have the Grace Signifyed and Promiſed, The Seal of the Promiſe cannot Warrantably be Denyed unto them. By the 6. *Art.* of that *Chapter*, a Man that is Deaf and Dumb, ſhewing his Piety and Religion what he can, by evident Signs, Tokens, and Geſtures, may be Admitted to Partake, when by a long Experience of the Holineſs of his Life, the Church ſhall perceive he has Faith. By the 7. *Art.* thereof, The Bread of the Sacrament is to be Adminiſtred to thoſe who cannot drink Wine, they Proteſting that it is not through Contempt, and they doing what they can towards it, by putting the Cup as near their Mouth as they may do to avoid giving any manner of Offence. And by the 10. *Art.* of the ſame 12. *Chapter*, they ſay: In as much as ſeveral Sick Perſons come to receive this Sacrament, which gives Occaſion that ſeverals make Scruple of drinking the Wine after them, the Paſtors and Elders ſhall be Warned to take good Heed that Care and Prudence be uſed in this Matter. They may Communicate laſt.

The Ordinary Elements to be uſed in the LORD's Supper.

§ 3. Ordinary Bread is to be uſed, and it is moſt decent it be Leaven'd Wheat Bread. Any kind of Wine may be uſed in the LORD's Supper, yet Wine of a Red Colour ſeemeth moſt ſuitable. In caſe a Society of Chriſtians ſhould

ſhould want the Fruits of the Vine of all Sorts, I cannot think but it might be Supplyed by ſome Compoſure as like unto it as could be made: And if any Church laboured under that Invincible Neceſſity, were it not ſafer for them to Interpret that as a Call and Warrant to Communicate, though wanting the Fruit of the Vine, than to Conſtruct it an Authorizing them in a perpetual Neglect of that Sacrament?

Communicants to be Recorded by the Seſſions Order, and Admitted by their Sentence after Tryal.

§ 4. When the Admiſſion of theſe who are allowed to Partake of the LORD's Supper, is once Recorded by a Sentence of the Church Seſſion, which is to proceed either upon the Miniſters Examining of the Parties in their preſence, or at leaſt of two or three of the Elders, that ſo the Reſt may paſs their Sentence on their Teſtimony and Report. In that Caſe there will never be any Neceſſity of coming afterwards to Miniſters and Elders for Re-admiſſion, unleſs by after Scandal they be judicially Suſpended from that Privilege. *See* the Vindication of *Preſbyterial Government*, Printed at *London* 1659, *page* 143. *vide infra* § 6, and 16.

How Strangers are Admitted with, & how without Teſtimonials.

§ 5. When the Sacrament of the LORD's Supper is to be Celebrated in a Neighbouring Congregation, who have not Leiſure, and whoſe Work is not to Examine Strangers (as above) The Miniſter, or any Two Elders in his Abſence, may give Teſtimonials, yea ſhould give to any of their Pariſh, who Communicate ordinarily at their own Pariſh Church, and are without Scandal in their Life for the time, who are thereupon to be Admitted *ex debito*, and by reaſon of the Communion of Saints. But this is not to prejudge the Admiſſion of any Honeſt Perſon, who occaſionally is in the place where the Communion is Celebrate, or ſuch as by Death or Abſence of their own Miniſter or Elders, could not have a Teſtimonial. *Act* of *Aſſem. Feb.* 7. 1645, *Art.* 12. about Uniformity of Worſhip.

§ 6. By

Miniſters Behaviour, eſpecially with Perſons when firſt Admitted.

§ 6. By the 11. *Act* of the *Aſſembly* 1706, It is Recommended to all Miniſters, to take as ſtrict a Tryal as can be of ſuch as they Admit to the LORD's Supper, eſpecially before their firſt Admiſſion thereto, and that they Diligently Inſtruct them, particularly as to the *Covenant of Grace*, and the Nature and End of that Ordinance as a Seal thereof, and Charge upon their Conſciences the Obligations they ly under from their *Baptiſmal Covenant*, and ſeriouſly Exhort them to Renew the ſame. This fully Anſwers the End that any Proteſtant Biſhop can have in Miniſtring of Confirmation, or laying on of Hands upon thoſe that are Baptized and come to Years of Diſcretion: Neither doth it Savour of any Superſtition, or any Scandalous like Approach to the *Papiſts* their Confirmation (by Chriſm on Infants) for the receiving of the Holy Ghoſt, which is nothing elſe but an audacious and apiſh Imitation of Conveighing Miraculous Operations by the Apoſtles hands.

Perſons Guilty of more private Scandals, how to be Admitted.

§ 7. It is Agreeable to the Law of Nature to ſeek and promote the Good of others, according to our Ability and Opportunity, by Admoniſhing them to Forbear Sin and Repent for it, *Lev.* 19. 17. *Thou ſhalt not hate thy Brother in thy Heart, thou ſhalt in any ways Rebuke thy Neighbour, and not ſuffer Sin upon him.* See *Matth.* 18. 15. I ſuppoſe that the Sovereigns on Earth did publiſh their Intentions of Pardoning all Traitors, who ſhould expreſs their Sorrow and Hatred at former Treaſons, and as a Mean to Reduce them to that Happy Temper, had ſtrictly Commanded and Required all their Good Subjects, to put them in Mind of the Ingratitude, Folly, and Danger of their Treaſon: Would not we conclude that a Neighbour ſeeing his Fellow commit Treaſon, and not Reproving him therefore, did neither Regard his Sovereign's Honour and Authority, nor yet Valued his Neighbour's Happineſs? How much more juſtly may Our

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LORD and SAVIOUR load and charge Church Rulers with this Sin, if they fail to perform that Duty, ſeing he hath laid His ſpecial Commands upon them to do it? And therefore, if any Elder or Miniſter, ſhall ſuffer one whom they know to be guilty of ſome ſcandalous or hainous Sin, though not publick, to approach unto the LORD's Table, without ſatisfying Acknowledgements made in private for it, they do thereby, for ought they know, ſuffer him to partake of that holy Supper with un-repented Sin upon him.

Perſons who converſe not together; How to be admitted.

§ 8. As there are divers kinds of good Gifts, ſo there are divers Degrees of them, according to which we may and ought to love our Neighbour, more or leſs, becauſe we are commanded to do good unto all Men, both with our Spiritual Advice, and with our Worldly Goods, Miniſtring to their Neceſſities, but eſpecially unto them who are of the Houſhold of Faith, *Gal.* 6. 10. We are bound to ſhew our Love to our Enemies, by overcoming Evil with Good. *Rom.* 12. 21. Which is the way, not only to be even with them that wrong us, but to be above them. Every Man is called to provide for his own, eſpecially for thoſe of his own Houſe, 1 *Tim.* 5. 8. We are to have a Natural Affection for ſuch as be near to us in Blood, and the want thereof is diſcovered by their want of Converſe. The Apoſtle 1 *Cor.* 5. 11. forbids to keep company with ſome ſcandalous Perſons, and admitting that Precept to be prohibitive of a Civil Intimacy, it holds as a ſtronger Argument againſt Religious Communion with, or at leaſt Admiſſion of them to ſuch a diſtinguiſhing Ordinance. *Solomon, Prov.* 22. 24. forbids us to go into the company of a furious Man, and to converſe frequently and familiarly with an angry Man, as Friends uſe to do. So that, though there are common Offices due to all Men, yet that diſtinguiſhing Practice of Friends in frequent converſing together, is free and optional, as the beſtowing of Gifts is. Indeed, when

when nottour ſcandalous breaches and differences do happen, in that caſe, the Parties ſhould be obliged to a formal Agreement, by converſing in preſence of thoſe, whoſe Work it is to Compoſe ſuch Differences: But even then, they can be obliged to continue in no more Friendſhip than a common Converſe imports, eſpecially the leſed Party. They may be indeed both obliged to profeſs a ſincere Reconciliation, tho not unto a familiar Converſation. But as to the uſual converſe with thoſe of our Houſhold and Blood-Relations, as Husband with Wife, and Father with Children or the like, it is agreeable both to the Laws of Nature and Intereſt, firmly to preſerve and perſevere in that. Wherefore upon the whole, where ſuch near Relations refuſe uſual converſe with one another, or Neighbours at variance ſhall refuſe to renew or continue a common converſe, in that caſe, neither of the guilty Parties ought to be admitted to the LORD's Table.

Perſons ſcandalous per famam clamoſam; *How to be admitted, or atteſted.*

§ 9. *Fama clamoſa, publica & frequens*, doth ſupply the part of an Accuſer, ſo that any who ly under the laſh of ſuch Reports, muſt be ſo far from being admitted to the LORD's Table, or yet atteſted of, as free of Scandal, that they ſhould be proceſs'd thereupon, and have the Benefit of neither, till they juſtifie themſelves, *vide Tit. Of Viſitation of Families.*

How to admitt thoſe who take ſome different Methods from the Church.

§ 10. When one Church Government is eſtabliſhed, if the Church ſhall even then be ſo unhappy as to be afflicted with Schiſm from thoſe who own the ſame. In that caſe, there ought to be Union and Communion ſought and admitted, notwithſtanding failings and defects of ſeveral kinds: Providing Union and Communion may be had without acceſſion to the Guilt or Defects of others: That is, without being obliged to approve of them, or condemn in our own Practice what we judged Right, or that we be not by any Engagement reſtrained from a Duty. Indeed where there is no Union in Church Government, Mr. *DURHAM on*

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Scandal, Chap. 13. ſays, He cannot nor dares not offer any Directions for making up an Union here. As for allowing theſe who in their Judgment differ about Church Government to Communicate with us: It is fifer to allow them to Communicate with us, than for us to Communicate with them; For by this way, they may be brought unto us, and we out of hazard of being led away by them. But for all this, ſuch Perſons are not to be admitted, if they be in their Practice culpable of any thing which would juſtly keep back thoſe of our own Communion; that would be truely a contracting of too much guilt, for gaining of any occaſional Proſelite or Communicant.

How theſe who are guilty of National Sins ſhould be admitted.

§ 11. When there hath been a great and general Defection by a Church and Kingdom, then the National Aſſembly uſeth to appoint a National Faſt and Humiliation for theſe Cauſes. See the Act for a Faſt *November* 12*th.* 1690. And whoever had been guilty or acceſſory to the Sins and Evils therein acknowledged: If they joined in the publick Faſting, they did thereby acknowledge the Cauſes thereof to be juſt and true, and profeſſed their Sorrow and Humiliation therefore: Wherewith the Seſſion ought to be ſatisfied, if they ſignifie their Meaning to have been ſo, or that they judge the Cauſes of the Faſt True and Relevant.

How Non-Communicants ſhould be treated.

§ 12. By the Act of Aſſembly, *Auguſt* 3*d.* 1642. every Preſbytery is enjoined to proceed againſt Non-Communicants. And by the 11. *Art. Cap.* 12. of the *French* Church Diſcipline, theſe who have been a long time in the Church, and will not Communicate of the LORD's Supper, if they do it through Contempt, or for fear of being obliged to forſake all manner of Idolatry, after ſeveral Admonitions, they ſhall be cut off from the Body of the Church: But if it be through Infirmity, they ſhall be born with for ſome time, until they can be eſtabliſhed. And by the Act of Parliament 16. *Jam.* 6. *Cap.* 17. which is never yet Re-

ſcinded, but rather Included in the Acts made and Ratified againſt Profaneneſs. By it all Men are to Communicate once a Year, without reſpect to the Excuſe of deadly Feuds, under Pecunial Pains according to the Quality of the Tranſgreſſors. This Act is Ratified by the Parliament 1641. Tho' People ought not, nor cannot, be compelled to Communicate, yet Non-Communicating, not being a Matter Indifferent, but a palpable Diſobedience to GOD's Voice in the Goſpel, (*Luke* 22. 19.) they ought to account for that ſcandalous Neglect and Intermiſſion, e're they be of new admitted.

The Deſign & Diſtribution of Tickets.

§ 13. None muſt preſume to ſit down at the LORD's Table, but ſuch as are admitted according to Order, except thoſe whoſe Fitneſs is unqueſtioned and notour. Each Perſon before Communicating doth deliver the Pariſh Lead Ticket, when ſought for, to one of the Elders or Deacons when ſitting at the Table: But it were ſafer to demand theſe Warrants or Tokens at their entry to the Tables: For a Perſon unwarrily or deſignedly approaching to the Table without a Token, may with leſs Obſervation or Offence, be thus kept from it, than raiſed from it. Theſe Tickets are diſtributed by the Seſſion, or Members thereof by their Allowance, to ſuch as they have admitted, or know to be lawfully atteſted from other Pariſhes.

Fencing and Opening of the Tables; It's Uſe and End.

§ 14. The Miniſter and Seſſion having according to the Rules of Diſcipline, admitted unto, or debarr'd Perſons from the Lord's Table, the Paſtor doth now, immediately before he read the Words of Inſtitution, Doctrinally debarr from, and inviteth all unto the Lord's Table according to the State and Condition they *really are in.* If there has been an Un-exactneſs or Omiſſion in the Exerciſe of Diſcipline, through which ſome are admitted whom the Word of GOD forbids to approach on their Peril; This Doctrinal debarring may ſcarr ſuch from partaking. But if there hath been an imprudent and uncharitable Exerciſe of Diſcipline,

cipline, in debarring of ſome wrongouſly, then the Paſtor's Doctrinal opening of the Tables, and inviting ſuch from the Word of GOD to approach, albeit debarred by the Key of Diſcipline, may nevertheleſs comfort themſelves in the Lord, who will be a little Sanctuary unto them who are thus roughly and indiſcreetly treated by the Watch-men. From all which, we may gather, that it's ſafer to err on the right Hand of Charity, than on the left Hand of Strictneſs and Severity; The Civil Law gives this Rule, *Semper in dubiis benigniora præferenda ſunt.*

§ 15. It is ſo far from being a Warrant, and ſatisfying to a Man's Conſcience, for approaching the Lord's Table, becauſe the Diſcipline of the Church admitts him, that even a Man habitually Gracious and prepared, will not for ordinar adventure to approach it, except he hath made Conſcience of getting himſelf actually prepared, and his Graces put in Exerciſe, and ſet apart ſome conſiderable time for that purpoſe. *Secret Preparation.*

§ 16. By the Act of Aſſembly 7 *February* 1545, about the Obſervation of the Directory in ſome Points of publick Worſhip, Congregations are ſtill to be Tryed and Examined before the Communion. *Item*, That when the Communion is to be celebrate, one Miniſter may be imployed for aſſiſting the Miniſter of the Pariſh, or at the moſt two. *Item*, That there be one Sermon of Preparation delivered in the ordinary Place of publick Worſhip upon the Day immediately preceeding. *Item*, That the Miniſter who cometh to aſſiſt, have a ſpecial care to provide his own Pariſh. *Item*, That before ſerving of the Tables, there be only one Sermon delivered to theſe who are to Communicate, and that there be one Sermon of Thankſgiving after the Communion is ended. *Item*, When the Pariſhioners are ſo numerous, that many of them cannot conveniently have place; In that caſe, the Brother who aſſiſts the Miniſter of the Pariſh, is to preach to them who are not to *Publick Preparation.*

Communicate that Day, which is not to begin, until the Sermon in the Kirk be ended, *To wit*, Sermon in the Fore-noon.

The preſent Practice.

§ 17. But by the preſent Practice, the *Thurſday*, or ſome other Day of the Week, preceeding the Communion, is kept as a Faſt-day, on which there are three Sermons, delivered by ſo many Neighbouring Miniſters, which yet to ſome ſeems not very proper: For the Deſign of that Day being a Congregational Faſt, on which, the Sins of that Pariſh are to be mourned over before the LORD, no other Miniſter can have ſuch particular Knowledge thereof, as he who Labours and Travels among them. Upon *Saturday* there are two preparation Sermons; And upon the LORD's Day there are in ſome Churches two Action Sermons, beſide the Thankſgiving in the After-noon; And on the *Monday* there are two Thankſgiving Sermons. There will be at theſe Occaſions, three, five, or perhaps moe Miniſters aſſiſting the Paſtor of the Congregation, becauſe of the great Confluence of People that reſort thereto. Intimation of the Celebration of the Supper, is made two or three Sabbaths before: (the Directory ſpeaks but of one) And on the Sabbath immediately preceeding publick Intimation is made of the Faſt.

What interveens 'twixt the Action Sermon and the Action it ſelf.

§ 18. Upon the Day of the Communion, a large Table being ſo placed, as the Communicants may beſt ſit, and the Congregation may both ſee and hear, the publick Worſhip is begun as on other Sabbaths. And immediately after Sermon, the Miniſter Prays and ſings a part of ſome Pſalm, then, having had an Exhortation, he deſires the Elders and Deacons to bring foreward the Elements, while he cometh from the Pulpit, and ſiteth down at the Table, and the Congregation again Sing; Thereafter, he fenceth and openeth the Tables, as before was ſaid. The Bread now ſtanding before him in large Diſhes, fitly prepared for Breaking and Diſtribution, and the Wine in large Cups; He Reads, and

and may ſhortly expound the Words of Inſtitution, 1 *Cor.* 11. 23.---27. *Next*, He uſeth a Prayer, wherein he both giveth Thanks for the Ineſtimable Benefit of Redemption, and prays to GOD to ſanctifie the Elements, and accompany His own Ordinance with the effectual Working of His Spirit.

The Miniſter's Behaviour at the Action.

§ 19. The Elements being thus Sanctified by Word and Prayer, the Miniſter is to take the Bread, and ſay, According to the Holy Inſtitution, Command, and Example of our Bleſſed LORD and SAVIOUR JESUS CHRIST, I take this Bread, and having given Thanks, I break it, and give it unto you, Take ye, Eat ye, this is the Body of CHRIST which is broken for you, do this in Remembrance of Him. In like manner, the Miniſter is to take the Cup, and ſay, According to the Inſtitution, Command, and Example of our LORD JESUS CHRIST, I take this Cup, and give it unto you, This Cup is the New Teſtament, in the Blood of CHRIST, which is ſhed for the Remiſſion of the Sins of many, Drink ye all of it: For as oft as ye eat this Bread, and drink this Cup, ye do ſhew the LORD's Death till He come. If the Miniſter have no other Brethren aſſiſting him in the Adminiſtration, from whom he is rather to take the Communion at the next Table, he is to Communicate himſelf at the firſt breaking of the Bread, and diſtributing the Cup.

Service of Tables by Elders and Deacons.

§ 20. All the while the Elders and Deacons in a competent Number, and in a grave and reverent Manner, do attend about the Table, to ſee that none be admitted without Tokens, as in § 13. *Huj. Tit.* and that all who are admitted, may have the Bread and Wine in their own Place and Order of Sitting, which is without Difference of Degrees, or Reſpect of Perſons.

The Behaviour of Miniſters and Communicants during the Service.

§ 21. By the laſt mentioned Act of Aſſembly, there is to be no Reading in the time of Communicating, but the Miniſter maketh a ſhort Exhortation at every Table; That there

there be Silence during the time of the Communicants receiving, only the Miniſter may drop a ſhort and ſuteable Sentence. By that ſame Act, the diſtribution of the Elements among the Communicants is to be univerſally uſed, after the Miniſter hath broken and delivered it to the neareſt. *Item*, That while the Tables are diſſolving, and filling, there be always ſinging of ſome Portion of a Pſalm. *Item*, That the Communicants both before their going to, and after their coming from the Table, ſhall only joyn themſelves to the preſent publick Exerciſe then in Hand. *Item*, That none of thoſe who are preſent in the Kirk, where the Communion is celebrate, be permitted to go forth, till the whole Tables be ſerved, and the Bleſſing pronounced, unleſs it be for more Commodious Order, and in other Caſes of Neceſſity.

Exhortation and Thanksgiving after all have Communicate; and the Concluſion.

§ 22. The laſt Table, after they have Received, ordinarly ſitteth ſtill, to avoid any trouble by going to their own Places. Then the Miniſter goes to the Pulpit, where, in a few Words, he putteth them in mind of the Grace of GOD in JESUS CHRIST, held forth in this Sacrament, and Exhorts them to walk worthy of it. Then he gives ſolemn Thanks to GOD for His rich Mercy in JESUS CHRIST, Begs His Pardon for the Defects of the whole Service, and Intreats His Aſſiſtance to walk as becometh thoſe who have received ſo great Pledges of Salvation, and then concludes with the uſual Petitions in the publick Prayers of the Church. After Prayer, all joyn in ſinging a part of a Pſalm, ſuteable to the Occaſion, and are diſmiſſed with the Bleſſing.

The frequent Celebration of the LORD's Supper Recommended.

§ 23. In the Manuſcript Acts of Aſſembly, there is an Act *December* 1562. appointing the Communion to be celebrate four times a Year in Towns, and twice a Year in Country Pariſhes; yea, it was Miniſtred then once a Moneth, as may be ſeen by the old Diſcipline bound in with the old Pſalms, and Forms for Prayer in Mr. KNOX's time.

And

And by the 14th *Art. Cap.* 12. of the *French Diſcipline*, It is Recommended to their National Synod, to give Directions about the more frequent Celebration of the LORD's Supper, and their Cuſtom then was four times a Year. But our *Acts* of *Aſſembly* 1638, *Seſſ.* 23. *Act* 12. *Act* 19. of *Aſſem.* 1701, and Directory for Worſhip, do only Recommend the Frequent Celebration of the LORD's Supper: But how often is to be Determined by the Kirk-Seſſions, as they ſhall find moſt Convenient for the People, their Comfort and Edification. Theſe Recommendations ſeem to be Treated with little or no Regard among us, for as yet, ſo far as I know, not one Pariſh hath Celebrate it once more than Ordinary upon their Account. I'm ſure, if they will have it but once a Year, yet Pariſhes, in the Neighbourhood may ſo Correſpond, as to have it in that Bounds all the Months of the Year, which will Supply the want of its Frequency in one Pariſh, at leaſt unto ſuch as may well Travel unto their Neighbour Churches.

How Communion Elements are payed, and applyed when the Communion is not Celebrate.

§ 24. By the Act *Jam.* 6. *Parl.* 3. *Cap.* 54. *ſub fin.* the Parſons of all Pariſh-Kirks are to furniſh Bread and Wine to the Communion ſo oft as it ſhall be Adminiſtrate. And by the *Act* of *Aſſem.* 1638, *Seſſ.* 23. *Art.* 12. Where the Miniſter of a Pariſh has only Allowance for furniſhing Communion Elements once a Year; It is Declared, that the Charges ſhould rather be payed out of that Days Collection, than that the Congregation want the more frequent Uſe of the Sacrament. *Spanhemius*, in his *Introduction to Sacred Hiſtory*, tells us, that in the Second Century, the LORD's Supper was then Expreſſed by ſeveral Names, and among others it was called the *OBLATION*, from the Peoples Offering the Bread and Wine. And truely, if the People were deſired to Contribute Money for that End, it were but Reaſonable, and not to be Grudged, even though it were but once a Year Celebrated,

ed, where the Minister has no Allowance even for that once, and wants likeways a Legal Maintenance, Allocated and Secured unto him. But where the Communion is but once a Year, and the Minister hath a Legal Stipend secured to him, he ought to be Discharged to take or Defray the Expences of the Elements out of the Money given and Mortified for the Use of the Poor: And this Practice is rendered yet the more Scandalous and Inexcusable, in Parishes where this Sacrament is but once a Year Celebrate, and where there be Colleagues who have both Legal Stipends. The Sum ordinarily Modified for Communion Elements doth not Exceed Fifty Merks *Scots*, which the Heretors are lyable yearly to pay, albeit the Communion be not Administrate in the Parish, providing the Minister offer to Apply it for the Use of the Poor.

TITLE V.

Of the Solemnization of Marriage.

Marriage described.

§ 1. MATRIMONIUM Is Defined by *Modestinus* to be *Maris & Fœminæ conjunctio, & omnis vitæ Consortium, Divini & Humani juris communicatio*, i. e. The Conjunction of Man and Woman to be Consorts for all their Life, with a Communication of Rights Divine and Humane. By the Laws of the Church of *England*, as they are Reformed by *Henry* the 8th, and *Edward* the 6th, in the Latter Edition Printed at *London* 1641, Marriage is Defin'd, *Legitimus contractus mutuam & perpetuam viri cum fœmina conjunctionem, Dei jussu inducens & perficiens; in quo tradit*

uterque

uterque alteri poteſtatem ſui corporis, vel ad prolem ſuſcipiendam, vel ad ſcortationem evitandam. NUPTIÆ are ſometimes taken *pro ritu nuptiali*, for Wedding Ceremonies.

Sponſalia or *Eſpouſals, what?*

§ 2. The *Sponſalia*, or Eſpouſals, *ſunt mentio & repromiſſio futurarum nuptiarum*, or, *de futuro Matrimonio*, It is only a Conſent *de preſenti* that makes Marriage: But the Conſent *de futuro*, which is given at the Contract of Marriage or Proclamation of Banns, is only the Eſpouſals, which are premiſed to Marriage, it being ſo Solemn an Act, ſhould be performed with due Deliberation. By the Civil Law and Cuſtom of this Nation, there is place, *rebus integris* for either Party to Repent, and Renounce the Eſpouſals. Vide *Stairs Inſtit. page* 25. And by the 9th *Art. Cap.* 13. of the *French Church Diſcipline*, tho' it be Prohibited to Marry the Siſter of the Deceaſed, yet it doth not condemn Marrying the Siſter of one Contracted, that is Dead, becauſe it ſuppoſes that an Alliance is not Conſummated but by Commixtion of Blood or Sex. *See* the *Commentary* on that *Article.*

Forbidden Degrees.

§ 3. Marriage ought not to be within the Degrees of Conſanguinity or Affinity, forbidden by the Eighteenth Chapter of *Leviticus*; The Man may not Marry any of his Wifes Kindred nearer in Blood than he may of his own, nor the Woman of the Huſbands Kindred nearer in Blood than of her own. (See the *Confeſſion of Faith*) Otherwiſe the Marriage may be Declared to have been Null. A Man may Marry any of his Wifes Allys, or a Woman any of her Huſbands Allys; *nam non datur Affinitas Affinitatis.*

Marriage may be declared Null upon Impotency, and when not?

§ 4. Marriage being Ordained for the Increaſe of Mankind, and for Preventing of Uncleanneſs, Perſons Naturally Impotent are therefore Incapable to Marry. Yet by the Laws of the Church of *England*, as Reformed by K. *Hen.* 8th, and King *Edward* the 6th, *De Matrimonio,*

Cap. 7. their Canon runs thus, *Verum ſi nota ſit utrique perverſitas, & tamen mutus perducet de Matrimonio conſenſus, nuptiæ procedant; quoniam volentibus nulla injuria poteſt fieri.*

Who cannot Conſent, cannot Marry.

§ 5. Theſe who cannot Conſent cannot Marry, ſuch as Idiots and Furious Perſons *durante furore*, neither they who have not the Uſe of their Reaſon, as Infants and thoſe under Age who are not come to the Uſe of Diſcretion, that is when the Perſon is within the Years of Pupillarity, commonly Eſtabliſhed in Law to be Fourteen in Males, and Twelve in Females, *niſi malitia ſuppleat ætatem*, which without further Probation Declares them to be Arrived at that Diſcretion which fits them for Marriage.

Conſent of Parents, and of Promiſes of Marriage made by Minors.

§ 6. If it be aſked, whether the Conſent of Parents, Curators or neareſt Friends in their place be Eſſential to Marriage? The Common Sentence will Reſolve it, *Multa Impediunt Matrimonium contrahendum, quæ non dirimunt contractum.* So that their Conſent becomes neceſſary, as it were, *neceſſitate præcepti, ſed non neceſſitate medii.* And by an Overture of Aſſemby, *June* 4. 1644, It is propoſed to be Conſidered on, and Reported by the Preſbyteries, that Promiſes of Marriage made by Minors, to Women with whom they have Committed Fornication, be Declared Null and of no Effect; Eſpecially when the Youth is not willing to Obſerve the ſame, becauſe his Parents Threaten him with the Loſs of their Bleſſing and of his Birth-right. This is propoſed as being agreeable to the Word of GOD.

Errors that Annull the Conſent in Marriage.

§ 7. Errors in the Subſtantials make void the Conſent, unleſs future Conſent Superveen, as it did in *Jacob*, who ſuppoſed that he had Married and received *Rachel*, but by miſtake got *Leah*, yet was content to Retain her, and to Serve for the other alſo: But Errors in Qualities or Circumſtantials vitiate not, as if One ſuppoſing he had Married

Married a Maid or Chaſt Woman, had Married a Whore according to *Stairs Inſt. pag.* 26. Yet by *Deut.* 22. 21. That Errour ſeemeth to be accounted Subſtantial: For by that Text a Woman ſo Deceiving a Man was to be put to Death. And by the 38 *Art. Cap.* 13. *French Church Diſcipline*, If it ſhould happen, that after Contracts and Promiſes made, and before the Accompliſhment of Marriage, the Bride is found to have Committed Fornication, before or after the ſaid Promiſes, and that it was unknown to him who had promiſed her Marriage, the Conſiſtory may proceed to a New Marriage: And the Bride ſhall have the ſame Liberty, if it be found that the Bridegroom has been guilty of Fornication befcre the ſaid Promiſe. By the 5th *Art. Cap.* 24. of our *Confeſſion of Faith*, that Caſe is only Determined thus far, *viz.* Adultery or Fornication committed after a Contract, being detected before Marriage, giveth juſt Occaſion to the Innocent Party to Diſſolve that Contract, and they Support this from that Scripture, *Matth*, 1. 18, 19, 20.

Teſtimonials for Marriage.

§ 8. Parties cannot be *Married* without they be known to be ſingle Perſons, either by the Miniſters own proper Knowledge, or by a Teſtimonial from ſome Miniſter, Elders, or Seſſion, bearing the ſame. But albeit they cannot procure a Teſtimonial in common Form, through their being Scandalous, yet the Benefite of *Marriage* cannot be Denyed them after the Proclamation of Banns. But by the 21 *Art. Cap.* 23. of the *French Church Diſcipline*, if one of the Parties who deſire to be *Married*, is Excommunicated, the *Marriage* ſhall not be Admitted in the Church, unleſs the Excommunicate Perſon make Confeſſion of his Faults, but thoſe that are Suſpended from the LORD's Supper they allow to be *Married*.

Marriage with Papiſts.

§ 9. By the 3d *Article*, *Chap.* 24. of our *Confeſſion of Faith*, ſuch as profeſs the true Reformed Religion, ſhould not *Marry* with Infidels, Papiſts, or with other Idolaters, or with ſuch as maintain Damnable Hereſies. And in

purſuance of that by an Overture of the *Aſſembly* 1701, The Tranſgreſſors were to be Excommunicated. But our States-men Diſliking the ſame, this Overture in the *Aſſembly* 1704, *Act* 22. Iſſued only in a Recommendation. By the 72 *Canon Concilii Sexti in* Trullo, It is Determined thus, *Non licere virum Orthodoxum cum muliere hæretica conjungi, neque verò Orthodoxam cum viro hæretico copulari, ſed & ſi quid ejuſmodi ab ullo ex omnibus factum apparuerit, irritas nuptias exiſtimare & nefarium conjugium Diſſolvi.* But if two Infidels *M*arry, and one of them becometh Chriſtian, the Perſon Converted is not thereupon Warranted to Deſert or put away the other Party who continues Blind, 1 *Cor.* 7. 13, 14. And by *Can.* 31. *Concilii Laodiceni, Quod non oportet cum omni Hæretico Matrimonium contrahere, vel dare ſilios aut filias, ſed potius accipere ſi ſe Chriſtanos futuros profiteantur.* And by the 20 *Article, Cap.* 13. of the *French Church Diſcipline*, when one of the Parties is of a Contrary Religion, the purpoſes of *M*arriage ſhall not be publiſhed in the Church, until the Party doth publickly profeſs in the Church, that with full Reſolution he Renounceth all Idolatry and Superſtition, particularly the *Maſs* : And if any Paſtor or Conſiſtory do otherwiſe, they may be Suſpended or Turned out of their Office : Thus Difference in Religion juſtly Impedes but doth not Annull *M*arriage.

Marriage delayed 40. Days after Proclamation and Scorning the Kirk.

§ 10. If Parties Delay their *M*arriage Fourty Days after Proclamation, they are to be put to the Renewing of the ſame before they be *M*arried : And the *French Diſcipline, Cap.* 13. *Art.* 26. doth Recommend, not to Delay the Celebration after Proclamation of Banns, above Six Weeks, to prevent Inconveniences and ill Conſequences. The Reſiling of Parties after Proclamation, is commonly called among us, a Scorning of the Kirk, thō the Injury or Affront redounds moſtly againſt themſelves, and not ſo much upon the Congregation. Indeed, if it could be known

known that Parties never had a ſerious Purpoſe for Marriage, but only from a profane, mocking and vain Temper, had deſired themſelves to be proclaimed; In this caſe, they deſerve to be treated as Mockers of GOD and His People. There are other ways whereby GOD and His Church may be mocked, when Perſons, who be ſound in Body and Mind, are given up to be minded in the publick Prayers of the Church, when they are truely diſtreſſed in neither, the Authors of which Mocking and Forgery deſerve to be proceeded againſt with the Cenſures of the Church.

When Adultery and wilful Deſertion annul Marriage.

§ 11. Adultery and willful Deſertion do not annul the Marriage on any abſolute Neceſſity, but they are juſt Occaſions upon which the Perſons Injured may annul it, and be free; Otherways, if they pleaſe to continue, the Marriage remains Valid, excepting when the Adultery is Committed or Accompanyed with Inceſt, as if a Man ſhould ly with his Wife's Siſter, in which caſe the Wife cannot free her ſelf from the Scandal of Inceſt, if ſhe, after Knowledge thereof, continue to Co-habite with him as her Husband. And by the *Parl.* 1573. *Cap.* 55. it is Ordered, that the Deſerter, after four years Wilful Deſertion without a Reaſonable Cauſe, muſt be firſt purſued, and Decern'd to Adhere, and being there upon Denounced, and alſo after Private and publick Admonitions, by the Church Excommunicate, the Commiſſars are warranted to proceed to Divorce. But ſimple abſence will not be accounted wilful Deſertion, if he be following any Lawful Employment Abroad. In Caſe then, A party be out of the Countrey, I ſee not how this Order can be Uſed and Proceeded in, unleſs it were Sufficiently Verifyed and made appear, that he knew of his being Cited before theſe Conſiſtorial Courts, and that his Abſence was Wilful and not Neceſſary.

Re-marrying in Caſe of Divorce or proven Adultery.

§ 12. A Party divorced for Adultery may marry again, ſo it be not to thoſe with whom the Adultery, upon which the Divorce proceeded, was committed: For Marriage between

tween ſuch is declared null, and the Iſſue inhabile to ſucceed to their Parents as Heirs, *Parl.* 1600. *Cap.* 20. Yea, it ſeems agreeable to Equity and Reaſon, that where Adultery was proven, albeit no Divorce enſued, in that caſe the Adulterers cannot marry together. Which agrees with the *Civilians*, That, *Dolus malus facit ceſſare quodcunque privilegium, fraus enim nemini debet patrocinari imò punienda.*

Force annuls Marriage.

§ 13. Marriage contracted with a Woman Raviſhed or violently taken away and ſtill Reclaiming, is annulled from the beginning; See *Mackenzie* & *Matthæus* de *Raptu*. And to this agrees that forecited Book of the Eccleſiaſtical Laws of *England*, *Cap.* 12. *de Matrimonio*. But I'm ſure 'tis unjuſt to treat their Children as Sons of Whores; See *Lib.* 3. *Tit. Raviſhers of Women.*

Time and Place of Marriage.

§ 14. After Banns have been lawfully proclaimed, and none found objecting againſt the Marriage, the ſame may thereafter be Celebrate in private Houſes, before Witneſſes, as the Cuſtom is now become, upon any Week-day, not being a Faſt-day. Albeit by the Directory for Worſhip, it is publickly to be Solemnized in the Place appointed by Authority for publick Worſhip, before a competent Number of credible Witneſſes, and they adviſe that it be not on the LORD's Day. I'm ſure, Seamen who are to looſe and go to Sea on *Monday*, may marry on the *Saturday* as well as on the *Sabbath* before.

No Marriage without Proclamation of Banns, unleſs the Preſbytery Diſpenſe therewith.

§ 15. Marriage without Proclamation is diſcharged, as having dangerous Effects, excepting where the Preſbytery, in ſome neceſſary Exigences, diſpenſe therewith, *Aſſemb.* 1638. *Seſſ.* 23. *Art.* 21. *Aſſemb.* 1690. *Seſſ.* 12. Before any Proclamation of Banns be made, the Names of Parties, and their Parents, Tutors, or Curators, are to be given up to the Miniſter, that the Conſent of Friends may be known, and the Proclamation is to be made before Divine Service begin, for three ſeveral *Sabbaths*; The Parties named being

ing deſigned as fully as they uſe to be in Writs or Contracts of Marriage, and in Collegiate Churches, the Proclamation is to be in every Church of the Town, *Aſſem.* 1699. *Seſſ.* 5. By the 18. *Ar.* 13. *Cap.* of the *French* Church Diſcipline, theſe who live in Places where the uſual Exerciſes of Religion is not eſtabliſhed, may cauſe their Banns to be publiſhed in *Romiſh* Churches, inaſmuch as the Matter is partly of a Political Nature. And by the 22. Article of that Chapter, the Banns of Widows who Re-marry ſhall not be publiſhed in the Church, till ſeven Months and two Weeks, at leaſt, after the Deceaſe of their former Husbands, to avoid the Scandals and Inconveniencies that may happen by it, unleſs it ſo happen, that the Magiſtrates Order may Interpoſe to the contrary.

Clandeſtine Marriage, What? It's Puniſhment, and Cenſure.

§ 16. One may be Clandeſtinely Married, either when Banns are not proclaimed, or when the Marriage is Celebrated by one not Ordained and Admitted by the Church, nor Authorized by the State. By our Acts of Parliament *W. Par. Seſſ.* 5. *Cap.* 12. The Perſons Clandeſtinely Married, may now be proſecuted by every Procurator Fiſcal. And by *Cap.* 6. *Seſſ.* 7. *Parl.* K. *W.* Perſons Clandeſtinely Married, are obliged, when required, to declare the Name of the Celebrator, and Witneſſes, under the Pains following, *viz.* Each Nobleman 2000 *lib.* the Landed Gentleman 2000 *Merks*, any other Gentleman or Burgeſs 1000 *lib.* and any other Perſon 200 *Merks*, and to be Impriſoned till they Declare and Pay. The Celebrator is puniſhable by the Council, not only with Baniſhment, but in ſuch Pecunial or Corporal Pains as they ſhall think fit; The Witneſſes are made lyable in the Sum of 100 *lib.* None of the Parties (if both be Reſiding in *Scotland*) ſhall get themſelves Married in *England*, or *Ireland*, without Proclamation of Banns in *Scotland*, and againſt the Order of the Kirk, under the Pains as aforeſaid, which are always without prejudice of Kirk-Cenſure. And there is no doubt they

they ſhould be Rebuked as unneceſſary Tranſgreſſors of a very Comely and Rational Church Order.

Objectors againſt the Marriage on that Day ought to find Caution.

§ 17. By the Form of Solemnization of Matrimony, preſcribed by the Church of *England*, in the Book of Common Prayer: If any Man upon the Day of Marriage, do Alledge and Declare any Impediment, why the Parties may not be coupled together in Matrimony, by GOD's Laws, and the Laws of the Realm, and will be bound, and ſufficient Sureties with him, to the Parties, or elſe put in a Caution (to the full Value of ſuch Charges as the Perſons to be Married do thereby ſuſtain) to prove his Allegation; Then the Solemnization muſt be deferr'd until ſuch time as the Truth be tryed.

Form of Solemnization of the Marriage Covenant.

§ 18. After the Purpoſe of Marriage hath been Orderly Publiſhed. The Miniſter is firſt to pray for a Bleſſing upon the Parties appearing to be Married: Which being ended, he is briefly to Declare unto them out of the Scripture, the Inſtitution, Uſe and Ends of Marriage, with the Conjugal Duties. Then he is ſolemnly to charge the Perſons to be Married, that they would Anſwer as in the Sight of GOD, to whom they muſt give a ſtrict Account at the laſt Day, that if either of them know any Cauſe, by Pre-contract or otherways, why they may not Lawfully proceed to Marriage, that they now diſcover it. The Miniſter, if no Impediment be acknowledged, ſhall cauſe firſt the Man take the Woman by the Right Hand, ſaying theſe Words. *I*, N. *do take thee* N. *to be my Married Wife, and do in the Preſence of GOD, and before theſe Witneſſes, Promiſe and Covenant to be a Loving and Faithful Huſband unto thee, until GOD ſhall ſeparate us by Death.* Then the Woman ſhall take the Man by the Right Hand, and ſay theſe Words. *I*, N. *do take thee* N. *to be my Married Huſband, and I do in the Preſence of GOD, and before theſe Witneſſes, Promiſe and Covenant, to be a Loving, Faithful and Obedient Wife unto thee, until GOD ſhall ſeparate us by Death.*

Death. Then without further Ceremony, the Miniſter ſhall pronounce them to be Huſband and Wife according to GOD's Ordinance, and ſo conclude the Action with Prayer.

Regiſter of Marriage & Baptiſms; How to bear Faith.

§ 19. By the Directory for Worſhip on this Head, a Regiſter is to be carefully kept, wherein the Names of the Parties ſo Marryed, with the time of their Marriage, are forthwith to be fairly Recorded, for the Peruſal of all whom it may concern. And that the Regiſters of Baptiſms and Marriages may bear the greater Faith, it's fit they be ſubſcribed on each page by the Miniſter; Or, in a Vacancy, by two Elders, and the Clerk of the Seſſion.

TITLE VI.

Of Viſitation of the Sick.

Miniſters, Elders, or Deacons, ſhould be Cautious in being alone with unmarried Women when ſick or in trouble.

§ 1. WE are admoniſhed by the Apoſtle *Paul* 1 *Cor.* 10. 32. to give no Offence neither to the *Jews* nor to the *Gentiles*, nor to the Church of GOD. By the 41 Canon *Concil. Carthagin. Clerici ad Viduas vel Virgines non ingrediantur, ſed cum Con-clericis, vel ubi adſunt Clerici, vel aliqui bonæ exiſtimationis Chriſtiani.* And by the Act of Aſſemmbly *Auguſt* 24*th* 1647. *Seſſ.* 19. *Art.* 13. ſometimes the Perſon troubled may be of that Condition, or that Sex, that Diſcretion, Modeſty, or fear of Scandal, requireth a Godly grave Friend to be preſent, when the Paſtor is viſiting the troubled Perſon.

Miniſters and People are frequently to converſe about their Soul-Matters.

§ 2. It is the Miniſter's Duty to Admoniſh, Exhort, Reprove and Comfort theſe committed to his Charge, upon all ſeaſonable Occaſions, ſo far as his Time, Strength and Perſonal Safety will permit. The People are often to conferr with their Miniſter about the Eſtate of their Souls, and in times of Sickneſs to deſire his Advice and Help, before their Strength and Underſtanding fail them: For this and what follows of this Title ſee the *Directory*.

The Matter of his Conference when sent for to the Sick.

§ 3. The Minister being sent for, is to repair to the Sick, and to apply himself with all Tenderness and Love to his Soul, instructing him out of the Scripture, that Diseases come not by Chance, or by Distempers of Body only, but by the Wise Hand of GOD; And whether it be laid upon one out of Displeasure for Sin, for his Correction or Amendment, or for Tryal and Exercise of his Graces, or for other special and excellent Ends, all his Sufferings shall turn to his Profit, if he sincerely Labour to make a sanctifyed Use of GOD's Visitation, neither despising His Chastening, nor waxing weary of His Correction.

How to deal with the Ignorant, Doubting and Secure.

§ 4. If the Minister suspect him of Ignorance, he shall Examine and Instruct him in the Principles of Religion, and in the Nature, Use, Excellency and Necessity of the Graces of the Spirit of GOD. He shall stir up the Sick Person to Examine himself, to search and try his former Ways, and his Estate towards GOD. If the sick Person shall declare any Scruple, Doubt, or Temptation, that is upon him, Instructions and Resolutions shall be given to settle him. But if it appear that he hath not a due Sense of his Sins, Endeavours ought to be used to convince him, of the Guilt, Pollution and Desert of them; And withal, to make known the Danger of delaying Repentance, and to rouse him out of a stupid secure Condition, to apprehend the Justice and Wrath of GOD, before whom none who are out of CHRIST can stand: Care must be taken that the sick Person be not cast down into despair, by such a severe Representation of the Wrath of GOD due to him for his Sins, as is not mollifyed by a seasonable propounding of CHRIST and His Merits, for a Door of Hope to every penitent Believer.

How to deal with these of whose Well-beeing there is ground of Hope.

§ 5. If the sick Person have endeavoured to walk in the Ways of Holiness, and to serve GOD in Uprightness, altho' not without many Failings and Infirmities; Or, if his Spirit be broken with the Sense of Sin, or cast down through

through the Senſe of the want of GOD's Favour: Then it will be fit to raiſe him up, by ſetting before him the Freeneſs and Fulneſs of GOD's Grace, the Sufficiency of CHRIST's Righteouſneſs, and the gracious Offers in the Goſpel: It may be alſo uſeful to ſhew him, that Death hath no Spiritual Evil to be feared by thoſe who are in CHRIST, becauſe Sin, the Sting of Death is taken away by Him, who hath delivered all that are His from the Bondage of the Fear of Death. Let Advice alſo be given, as to beware of an ill-grounded Perſwaſion on Mercy, or on the goodneſs of his Condition for Heaven, ſo to diſclaim all Merit in himſelf, and to caſt himſelf wholly upon GOD for Mercy, in the ſole Merits and Mediation of JESUS CHRIST.

The Miniſter is to pray, if deſir'd; And for what?

§ 6. When the ſick Perſon is beſt compoſed, may be leaſt diſturbed, and other neceſſary Offices about him leaſt hindered; The Miniſter, if deſired, ſhall pray with and for him, confeſſing and bewailing Original and Actual Sin, acknowledging it to be the Cauſe of all Miſery; Imploring GOD's Mercy for the ſick Perſon through the Blood of CHRIST, beſeeching that GOD would open his Eyes, cauſe him to ſee himſelf loſt in Himſelf, make known to him the Cauſe why GOD ſmiteth him, Reveal JESUS CHRIST to his Soul for Righteouſneſs and Life, give unto him His Holy Spirit to create and ſtrengthen Faith, to work in him comfortable Evidences of His Love, to Arm him againſt Temptations, to take off his Heart from the World, to furniſh him with Patience and Strength, to bear his preſent Viſitation, and to give him Perſeverance in Faith to the end: That if GOD ſhall pleaſe to add to his Days, he would vouchſafe to bleſs all Means of his Recovery, renew his Strength, and enable him to walk worthy of GOD by a faithful Remembrance and diligent Obſerving of his Vows and Promiſes of Holineſs and Obedience: And if GOD hath determined to finiſh his Days, by the preſent

Viſitation, he may find ſuch Evidence of his Intereſt in CHRIST, as may cauſe his Inward Man to be Renewed, while his Outward Man Decayeth.

Peculiar Admonitions to the Sick, and Exhortations to ſuch as are preſent.

§ 7. The Miniſter ſhall Admoniſh him alſo, as there ſhall be Cauſe, to ſet his Houſe in Order, thereby to prevent Inconveniencies, to take Care for the Payment of his Debts, and to make Reſtitution or Satisfaction where he hath done any Wrong; to be Reconciled to thoſe with whom he hath been at Variance, and fully to Forgive as he Expects Forgiveneſs. He may alſo Improve the preſent Occaſion to Exhort theſe about the Sick Perſon, to conſider their own Mortality; And in Health ſo to prepare for Sickneſs, Death and Judgment, that when CHRIST who is our Life ſhall appear, they may appear with him in Glory. When Sick Perſons deſire the Prayers of the Congregation, it is like an Intimation and Suit to theſe who have any Moyen with GOD to Pray for them in Secret, and continue ſo to do, as well as in Publick.

Why the Sick-Roll is Read in publick.

TITLE VII.

Of Burial of the Dead, Lyke-wakes, and Diriges.

The manner of Burial.

§ 1. BY the Directory for Worſhip, Upon the Day of Burial, the Dead Body is to be attended decently, ſuteable to the Rank of the Deceaſed Party to the Burial-place, and there immediately Interr'd without any Ceremony. 'Tis moſt convenient that at ſuch Occaſions, we have Meditations and Conferences ſuited thereto, and that the Miniſter as upon other Occaſions, ſo at this time if he be preſent, may put them in Remembrance of their Duty.

§ 2. By

§ 2. By the Old Book of Diſcipline in Mr. *Knox*'s Time, annexed to the Old Paraphraſe of the *Pſalms*; after Burial, the Miniſter, if preſent and deſired, goeth to the Church, if it be not far off, and maketh ſome Comfortable Exhortation to the People, touching Death and the Reſurrection. But by the *Act* of *Aſſembly* 1638, *Seſſ.* 23, 24. *Art.* 22. all Funeral Sermons are Diſcharged. *No Funeral Sermons.*

§ 3. By the *Act* of *Aſſembly* 1643, *Seſſ.* 9. They Diſcharge Burials, and hanging of Honours, Broads and Arms of Perſons of whatſoever Quality, within the Kirk where the People meet for publick Worſhip: For perhaps at ſome times the People would be Incommoded with open Graves. Biſhop *HALL* of *Norwich* was of Opinion that GOD's Houſe was not a meer Repoſitory for the Bodies of the Greateſt Saints. *Nor Burial in the Body of the Church.*

§ 4. By the *Acts* of *Aſſembly* 1645, *Seſſ.* 8. *Aſſembly* 1701, *Seſſ. ult.* All Lyke-wakes are Diſcharged, as Foſtering Superſtition and Profanity through the Land. No doubt, *Diriges* have likeways had as bad Effects, and from the ſame Reaſon may be alſo underſtood to be Diſcharged. *Like-wakes and Diriges Diſcharged.*

TITLE VIII.

Of Miniſterial Viſitation of Families.

§ 1. IT hath been the laudable Practice of this Church, at leaſt once a Year, (if the Largeneſs of the Pariſh, or bodily inability, or other ſuch like do not hinder) for Miniſters to Viſite all the Families in their Pariſh, and oftner if the Bounds be ſmall, and they able to perform it. Among other Reaſons for theſe Annual *Annual Viſitations of Families, the Cuſtom of this Church.*

nual Visitations of Families, this may be one, That because by the Order prescribed by our LORD, *Matth.* 18. there may be several Offences known to Ministers, Elders or Neighbours, which may justly keep back Offenders from partaking of the LORD's Supper, and yet it were Disorderly and Unedifying to remove these Offences in a publick way; these Visitations may serve to Purge a Congregation of such private Scandals.

The Design of the following Overtures.

§ 2. Although in regard of the different Circumstances of some Parishes, Families and Persons, much of the Management of the Work must be left to the Prudence and Discretion of Ministers, in their Respective Oversights; Yet these following Directions are offered by *Assembly* 1708, *April* 27, as helps for the more Uniform and Successful Management thereof, that it be not done in a slight and overly Manner, which supposeth the universal Practice thereof through this Church, and that the total Neglecters may be Censured therefore as supinely Negligent.

Time of Visitation, it's Intimation, &c.

§ 3. Such a time of Year is to be chosen for Ministerial Visitation, as the Families which he visits may be best at Leisure to meet with him, and if that time should happen immediately after the Communion, then it is seasonable, as it were, to beat the Iron while it is hot. Timeous Intimation is to be made to them of the Visitation: And the Elder of that Bounds of the Parish which is to be visited, is to accompany the Minister, and they should previously Censure together concerning the Condition and State of the Persons and Families of those Bounds.

First work to Salute the Family, Inquire for their Names, Testimonials, &c.

§ 4. When they enter a House, they are to Express their Wishes and Desires for the Blessing of GOD upon it, and that above all, their Souls may prosper: Then let them take an Account of the Names of the Family, Inquire for Testimonials from them who are lately come to the Parish, and Mark them in the Roll for Catechising,

and

and let them take notice who can Read, and of the Age of Children capable to be Catechiz'd; Then the Miniſter is to ſpeak to them all in General, of the Neceſſity and Advantage of Godlineſs, of Juſtice and Charity towards Man.

Servants ſpoken to in particular.

§ 5. He is next more particularly to ſpeak to Servants of their Duty, to Serve and Fear GOD, to be Dutiful, Faithful and Obedient Servants, and of the Promiſes made to ſuch, Commending to them the Reading of the Scriptures, and Secret Worſhip, and Love and Concord among themſelves, and in particular, a Holy Care of Sanctifying the LORD's Day.

Children to be ſpoken to.

§ 6. The Miniſter is to ſhow the Children and young Servants the Advantage of Knowing, Seeking and Loving GOD, and Remembring their Creator and Redeemer in the Days of their Youth, and to mind them how they are Dedicated to GOD in Baptiſm; and when of Age, and after due Inſtruction in the Nature of the Covenant of Grace, to Excite them to Engage themſelves Perſonally to the LORD, and to Deſign and prepare for the firſt Opportunity they can have of partaking of the LORD's Supper, to be eſpecially careful how they at firſt Communicate.

Heads of Families ſpoken to.

§ 7. Then he is to ſpeak privately to the Heads of the Family about their perſonal Duties towards GOD, and the Care of their own Souls; and their Obligation to promote Religion and the Worſhip of GOD in their Family, and to Reſtrain and get Vice Puniſhed, and Piety Encouraged, and to be careful that they and all in their Houſe Serve the LORD, and Sanctify His Day. He is more particularly to Inquire (1.) Whether GOD be Worſhipped in the Family, by Prayers, Praiſes, and Reading of the Scripture? (2.) Concerning the Behaviour of Servants towards GOD and towards Man, if they attend Family and publick Worſhip? How they Sanctify the LORD's

LORD's Day? and if they be given to Secret Prayer and Reading the Scriptures? (3.) If there be Catechizing in the Family? If their Children be Train'd up in Reading, according to the *Act* of *Assembly*, *Aug.* 10. 1648. In all which the Minister may Intermix suitable Directions, Encouragments and Admonitions as may be most Edifying.

General Questions and Exhortations.

§ 8. The Minister is to Inquire who want Bibles? And if they be not able to buy them, let the Poor's Box be at the Expenses: And Recommend to the Heads of the Family to get the *Confession of Faith*, *Catechisms*, and other Good Books, for Instructing in Life and Faith, according to their Ability. (2*do.*) Those who are tainted with Errour or Vice are to be Admonished secretly, or in the Family as may most Edify: and all are to be Exhorted to carry toward such as walk Orderly according to the Rule, *Matth.* 18. 15. (3*tio.*) The Minister is to endeavour to Remove Divisions in the Family, or with their Neighbours, and Exhort them to follow Peace with all Men as far as is possible. (4*to.*) Let it be Inquired who have Communicated, that they may be called to an Account privately how they have Profited, and put in mind to pay their Vows to the LORD. Confer also with others about the Causes of their not Communicating.

How to Visit such as keep not Communion with us.

§ 9. As for those who pretend Conscience for not keeping Communion with us, or whatever their Motives be, Ministers ought to deal with GOD for them, and with themselves in such a way as may be most proper to gain them, and Exoner their Consciences, waiting if peradventure GOD will prevail with him. Who can tell if their making them sensible of their Tender Love and Affection to their Persons, especially to their Souls, giving them all due Respect, and doing them all the Good they can, yet still Discountenancing their Sin, may in the End be Blessed of GOD for their Good, *Jud. v.* 22, 23. 2 *Tim.* 2. 24, 25.

§ 10.

§ 10. Seing in the whole of this Work, there is great need of much Prudence, Zeal for GOD, and Love to Souls: Visitation of Families should be carryed on with Dependance on GOD, and Fervent Prayer to Him both before a Minister set forth to such a Work, and with the Visited, as there can be Access to, and Opportunity for it. *Visitation a Difficult work.*

TITLE IX.

Of Sanctification of the LORD's Day; and Observing Fast and Thanksgiving Days.

§ 1. THe Sabbath is to be Sanctifyed by an Holy Resting all that Day, even from such Worldly Imployments and Recreations, as are Lawful on other Days, and Spending the whole Time in the publick and private Exercises of GOD's Worship, except so much as is to be taken up in the Works of Necessity and Mercy, as our *Shorter Catechism* beareth, Authorized by *Assembly*, *Aug.* 28. 1648. From which we may gather what the Church understands by Sanctifying or Profaning of the LORD's Day, and so will either Approve or Censure. *How the Sabbath is to be Sanctifyed.*

§ 2. By the *Act* of *Assembly* 1647, Concerning *Family Worship*, *Dir.* 8. The Master of the Family ought to take Care, that all within his Charge repair to the Publick Worship, which being finished, he is to see the rest of that Day spent in the private and secret Exercises of Piety. Care is also to be taken that the Diet on that Day be so Ordered, that neither Servants be unnecessarily detained from the publick Worship of GOD, nor any other Persons *How to be Sanctifyed in private Families.*

hindered from Sanctifying that Day. Private Preparation is likewiſe to be made for the Sabbath, by Prayer and ſuch Holy Exerciſes, as may diſpoſe to a more Comfortable Communion with GOD in his publick Ordinances. *See* the *Directory*.

Times for Faſting, and how Obſerved.

§ 3. When ſome Great and Notable Judgments are either Inflicted or Imminent, or by ſome Extraordinary Provocation notoriouſly deſerved; As alſo when ſome ſpecial Bleſſing is to be ſought or obtained, when Great Duties are Called for, or when Sins are Extraordinary for their Number or Nature, then it is that a Church may Injoin Faſting: Which is Obſerved by a Total Abſtinence, not only from all Food, (unleſs Bodily weakneſs do manifeſtly Diſable from holding out till the Faſt be ended, in which caſe ſomewhat may be taken, yet very ſparingly, to Support Nature when ready to Faint) but alſo from all Worldly Labour, Diſcourſes and Thoughts, and from all Bodily Delights tho' at other times Lawful, Rich Apparel, Ornaments and ſuch like, during the Faſt: And much more from whatever is in it's Nature or Uſe, Scandalous or Offenſive, as Gadiſh Attire, Laſcivious Habits and Geſtures, and other Vanities of either Sex: Which the Compoſers of the Directory Recommend to all Miniſters in their Places diligently and Zealouſly to Reprove, as at other times, ſo eſpecially at a Faſt.

Intimation of the Faſt. Materials for publick Prayer.

§ 4. The Sabbath before the Faſt, the Cauſes thereof are publickly Read from the Pulpit, and the Day of the Week Intimated upon which it is to be kept. The People are then to be earneſtly Exhorted to prepare themſelves for Afflicting their Souls upon that Day of Extraordinary Humiliation. So Large a Portion of that Day, as conveniently may be, is to be Spent in publick Reading and Preaching of the Word, with Singing of *Pſalms*, fit to quicken Affections ſuteable to ſuch a Duty, but eſpecially

in

in Prayer to this or the like Effect. Giving Glory to the Great Majesty of GOD the Creator, Preserver and Supreme Ruler of all the World, acknowledging his manifold great and tender Mercies, especially to the Church and Nation, humbly Confessing Sins of all sorts, with their several Aggravations, justifying GOD's Righteous Judgements, as being far less than our Sins do deserve, yet humbly and earnestly Imploring His Mercy and Grace for our selves, the Church and Nation, the Queen and all in Authority, and for all others for whom we are bound to Pray (according as the present Exigent requireth) with more special Importunity and Enlargement than at other times: Applying by Faith the Promises and Goodness of GOD for Pardon, Help, and Deliverance from the Evils felt, feared, or deserved: and for obtaining the Blessings which we need and expect, together with a giving up of our selves wholly, and for ever unto the LORD.

Several Fasts, General and particular.

§ 5. Beside Solemn and General Fasts appointed by the Assemblies or their Commissions, or by Civil Authority, upon Application from some Church-Judicatory unto them: Provincial Synods, Presbyteries, and Church-Sessions may appoint Fast-days to be kept within their Respective Bounds, as Divine Providence shall Administer unto them special Occasions. Likeways Families and particular Persons may do the same, providing their Fasts be not on those Days on which the Congregation is to Meet for publick Worship.

When the Church should be most Cautious in appointing Fasts.

§ 6. Our Fasting Days must be Indicted for such Causes as are both clear and just, and when it will be most for Edification: For that, as other positive Duties, doth not always Bind: Therefore the Church is to take heed of Appointing Fasts through Insinuations or Solicitations from States-men, lest they be Branded as Tools, to some who would Fast for Strife and Debate, that others who Differ

from them about State-matters may be expoſed to the *odium* of the people, as ill Countrey-men.

Cauſes of a Faſt in this National Church.

§ 7. The Cauſes of the Faſt enumerate in the Act of Aſſembly 1690. *November* 12. were theſe and the like. 1. *Perjury*, Dealing treacherouſly with the LORD, and being unſtedfaſt in His Covenant. 2. *Unfruitfulneſs* under the Purity of Doctrine, Worſhip and Government, having a Form of Godlineſs, but denying the Power thereof. 3. *Abuſe of GOD's great Goodneſs and Deliverance*, Evidenced by a Courſe of manifeſt Wickedneſs, and ſhameful Debauchery, ſuch as Drunkenneſs, Curſing, Swearing, Adultery, and Uncleanneſs of all ſorts. 4. *The Supremacy*, Which was advanced in ſuch a way, and to ſuch a height, as never any Chriſtian Church acknowledged, and whereby the Intereſt of our LORD JESUS CHRIST was intirely ſacrificed to the lawleſs Luſts and Wills of Men. 5. *Abjured Prelacy* was Introduced, and the Government of the Church was Overturned, without the Church's Conſent, and contrary to the ſtanding Acts of our National Aſſemblies. 6. *Complyance* with that Defection, both in Miniſters and others, ſome from a Principle of Pride and Covetouſneſs, or Man-pleaſing, and others through Infirmity and Weakneſs, or fear of Man and want of Courage and Zeal for GOD. 7. *Perſecution* of the Godly for Non-complyance with that ſinful Courſe: Many faithful Miniſters were caſt out, and many Inſufficient and Scandalous Men thruſt in on their Charges, and many Families ruined becauſe they would not own them as their Paſtors. 8. *Decay of Piety* under the late Prelacy, ſo that it was enough to make a Man be Nick-nam'd a *Phanatick*, if he did not run to the ſame Exceſs of Ryot with others. 9. *Atheiſm*, Which diſcovered it ſelf in ſome by their dreadful Boldneſs againſt GOD, in diſputing His Beeing, and Providence, the Divine Authority of the Scriptures, the Life to come, and Immortality of the Soul; Yea, and ſcoffed at thoſe things.

10. *Impoſing*

10. *Impoſing and Taking Unlawful Oaths and Bonds:* Lawful Oaths have been broken, and ungodly and Conſcience-polluting Oaths have been Impoſed and Taken, whereby the Conſciences of many through the Land are become ſo debauch'd that they ſcruple at no Oath, tho' many have been Oppreſs'd and Ruin'd for Refuſing them. 11. *Neglect of the Worſhip of GOD*, both in Publick, in private Families, and in Secret. 12. *Profanation of the LORD's Day*, ſucceeded in place of that wonted Care of Strict and Religious Sanctifying of it. 13. *The ſhedding of Innocent Blood.* 14. *Pride and Vanity*, yea *Sodom*'s Sins have abounded among us, Idleneſs, Fulneſs of Bread, Vanity of Apparel, and ſhameful Senſuality fill'd the Land. 15. As alſo, *Great perverting of Juſtice*, by making and executing unrighteous Statutes. 16. *Silence of Miniſters* in the time of ſuch a great Defection, as well as too general a Fainting among Profeſſors: And as ſome ſhewed no Zeal in giving ſeaſonable and neceſſary Teſtimony againſt the Defections and Evils of the Time, nor keeped a due diſtance from them; So, on the other Hand, ſome managed their Zeal with too little Diſcretion and Meekneſs. 17. *The abominable Idolatry of the Maſs* was ſet up in many places, and Popiſh Schools erected, whereby ſhameful Advances were made towards Popery. 18. *Great Ignorance of the way of Salvation through the Lord Jeſus Chriſt.* Though we profeſs to acknowledge there can be no Pardon of Sins, no Peace and Reconciliation with God but by His Blood, yet few know Him, or ſee the Neceſſity and Excellency of Him, and few eſteem, deſire, or receive Him as He is offered in the Goſpel: And as few are acquainted with Faith in Him, and living by Faith on Him, ſo few walk as becometh the Goſpel, and Imitate our Holy Lord in Humility, Meekneſs, Self-denyal, Heavenly Mindedneſs, Zeal for God and Charity towards Men. 19. *Great Contempt of the Goſpel*, Barrenneſs under it, and a deep Security under our Sin and

Danger

Danger. 20. Tho' the Lord, by caſting us into the Furnace of Affliction, hath been giving us a ſight of the Vanity of all things beſide Himſelf; Yet, to this day, there is a *woeful ſelfiſhneſs* among us, every one ſeeking his own Things, few or none the Things of Jeſus Chriſt, the publick Good, or one anothers Welfare. 21. *A bitter Spirit of Cenſoriouſneſs*, whereby the moſt part are more ready to Carp at the Sins and Defections of others, than to Repent and Mourn for their own. Theſe and the like were the Cauſes of the Faſt in the Year 1690, and to them the Faſts appointed ſince, do Ordinarily Referr. See alſo how the Land expreſſed the Senſe it had of the Guilt of all Ranks in the Solemn Acknowledgment of publick Sins, and Breaches of the Covenant; and a Solemn Engagment to all the Duties contained therein; Namely thoſe which did in a more eſpecial way relate unto the Dangers of that time. Act of the Commiſſion of Aſſembly *October* 6. 1648. For Renewing of the Solemn League and Covenant Ratified by Aſſembly thereafter.

No Faſt to be on the Lord's Day.

§ 8. Albeit by the Treatiſe of Faſting Emitted by the Aſſembly 25 *December* 1565. The Sundays were Appointed for ſome Faſts, as being for the greater eaſe of the people: And ſince, by the Laſt Act of Aſſembly 1646. A Faſt is Appointed on the Sabbath next except one, preceeding the then following General Aſſembly: Yet ſeing the Work to be performed on the firſt day of the Week is by Divine Inſtitution already Determined, we ought to ſet about it Exactly, which we all acknowledge to be a Thankſgiving and not a Faſt. Extraordinary Duties are not to Interfere with the Ordinary, nor is one Duty to ſhuffle out another. If either ſhould be allowed, it would look ſomewhat like the Reverſe of Redeeming the time, for thereby diligence is rather diminiſhed, than doubled in the Service of God.

Thankſgiving Days how obſerved.

§ 9. Days of Thankſgiving being Intimate on the preceeding Sabbath, for ſome Deliverance obtained, or Mercy

received,

received, are wholly to be ſpent in the publick and private Exerciſes of Divine Worſhip and Praiſes: The people are to Rejoice with Trembling, and to beware of all Exceſs in Eating or Drinking. And Demonſtrations of Civil Mirth, ſuch as Ringing of Bells, Fireing of Guns, Bonefires, and Illuminating of Windows ſhould not be Intermixed with the Religious Duties of that Day: But as upon Faſts, ſo upon thoſe Days, there ſhould be Liberal Collections for the poor, that their Bowels may bleſs us, and Rejoice the more with us. In the 6 §. the Church was cautioned againſt appointing Faſts for Strife and Debate, ſo I hope they ſhall be directed to avoid injoining of thankſgiving days from any falſe or unjuſt ends.

TITLE X.

Of Collections and Recommendations for the poor.

§ 1. BY the Act of Aſſembly 11 *Auguſt* 1648. Collections for the poor in time of Divine Service (which is practiſed in ſome Churches abroad) are Diſcharged, as being a very great and unſeemly Diſturbance thereof. And Church Seſſions are Ordained to Appoint ſome other Way for receiving theſe Collections. The Method now ordinarly taken is this; The Elders or Deacons do Collect at the Church-door from the people as they enter in, or elſe from them when within the Church, immediately before pronouncing the Bleſſing and after Divine ſervice is ended. *When Collections for the poor are made.*

§ 2. Beſide theſe Ordinary Collections for the poor, there are frequently Extraordinary Collections made for Charitable and Pious Uſes, particularly by Seſſion 10. Aſſembly *Extraordinary Collections.*

ſembly 1704. There is an Act for a Voluntar Contribution by way of Subſcription in each Preſbytery, for gathering from Noblemen, Gentlemen, and other charitably diſpoſed people, for Erecting Engliſh Schools, and Educating Youth in the High-lands and Iſles.

Recommendations are for a Definite time.

§ 3. For preventing Unneceſſary Begging, or Impoſing upon Charitable people, No Church Judicatory is to give Recommendations for Charity to any without their own Bounds, and theſe Recommendations are to be only for a Definite time. Aſſembly 1695. *Seſſ.* 17.

TITLE XI.

Of Proviſion for Schools and Univerſities.

How Sallaries for School-maſters are eſtabliſhed.

§ 1. BY K. *Will. Par. Seſſ.* 6. *Cap.* 26. It is Appointed that there be a School-maſter and School in every Pariſh, His Fee not under One Hundreth Merks, nor above Two to be payed by the Heretors and Life-Renters of the Pariſh, who are to have Relief for the half of it, off their Tennents; And that Letters of Horning be therefore Directed at the Inſtance of the School-Maſter, Conform to the Proportions Due by the Heretors, laid on by the Major part of them, (I ſuppoſe, Conveened by publick Intimation from the Miniſter in the Pulpit, by Order or Advice of the Seſſion) or failing of whom by any Five Commiſſioners of Supply, within the Shire upon the Preſbyteries Application to them: and the Heretors for the Sallary are to be Stinted Conform to their Valued Rent. *Item*, Proviſion for Schools and School-Maſters are declared to be a Pious Uſe, to which Patrons may Imploy vacant Stipends, at the ſight of the Sheriff of the

the Bounds. Excepting from this Act the Stipends vacant in the Synod of *Argyle*, becauſe of the *Act*, *Par.* W. *and* M. *Seſſ.* 2. *Cap.* 24. in their Favours. And by the 10th *Act*, *Aſſembly* 1699, It is Recommended to the ſeveral Preſbyteries, to uſe their Endeavours, that Schools be Erected in every Pariſh conform to the Acts of Parliament, and Acts of Aſſembly, and it is Recomended to Synods to ſee this Obſerved.

School Revenues Privileged.

§ 2. By the foreſaid 26. *Act*, and likeways by the 14. *Act* of the ſame *Seſſion* of *Parliament*, the Privileges granted to Miniſters for their Stipends, *viz.* That there be no Suſpenſion, except on Conſignation, are Extended to Univerſities, Schools and Hoſpitals, for the Ingathering of their Rents and Debts. *See* more of this on the *Title* of *Mortifications* and *Miniſters Stipends*.

The Maintenance for School-Maſters and Precentors to continue, tho' they Read not.

§ 3. When the Directory was Eſtabliſhed, by which publick Reading of the Scriptures was committed to the Preachers: and fearing leſt the Maintenance on that pretence might be withdrawn from the Readers. The *Aſſembly* did *Aug.* 6. 1649, Require the Preſbyteries, to ſee, that none of the Maintenance given to ſuch Readers, Precentors and School-Maſters be taken from them, notwithſtanding that Recommended Alteration in the Directory.

How far Univerſities may ſet Tacks of their Teinds.

§ 4. A Tack or Leaſe of Teinds ſet by an Univerſity for a definite time, with an Obligement to Renew the ſame in all Time thereafter, was found not Effectual after the definite Time was expired; though the ſame Rent was Received for ſome Years after, that was not ſuſtain'd as an Homologation, but as a tacite Relocation. *Vid. Stair's Inſtit. pag.* 301. So that after the definite Time is expired, they might Increaſe the Tack-Duty.

Extraordinary Supply for Univerſities and Schools.

§ 5. So Careful have our Sovereigns and Parliaments been for the Flouriſhing of theſe Seminaries of Church and State, that for their Proviſion and Bettering of their

Stocks, they have ſometimes upon the Offer made by the Clergy, Ordained Fourty Pounds, or Six *per Cent.* out of every Thouſand *Merks* of Miniſters Rents, to be payed Yearly for Five Years, *Car.* 2. *Par.* 1. *Seſſ.* 3. *Cap.* 24. and at other times Vacant Stipends are Aſſigned for their better Proviſion for a time, *Car.* 2. *Par.* 2. *Seſſ.* 3. *Cap.* 20. *Ja.* 7. *Par.* 1. *Cap.* 18. They have likeways Impoſed a *Ceſs* upon the Kingdom for Preſerving of ſome Univerſities, *Car.* 2. *Par.* 3. *Cap.* 23. Now the Univerſities by Gift under the Great Seal, do ſhare Liberally of the Biſhops Rents, and ſome of them have Lucrative and eaſy Tacks of Certain Biſhopricks, and Large Allowances too, even out of theſe Tack-Duties ſometimes, for Sallaries to New Profeſſions.

TITLE XII.

Of the Immunitie and Union of Churches.

Local Privileges within Church-Walls and Yards what, and how far Extended.

§ 1. BY the Canon Law, there are certain Immunities or Privileges granted within Church-Walls and Church-Yards, called *Local*, ſo as that ſecular Judges within that Bounds can cognoſce upon no Civil or Criminal Action: Alſo that no Incorporations, Councils, or Fairs meet or hold there: that there be no Univerſity Diſcourſes there: that ſecular Affairs be not the Subject of any Converſation there; Moreover that there be no Feaſtings there, and that theſe Bounds be Sanctuaries to the Guilty flying there for Refuge, and they are not to be pull'd thence to Puniſhment, unleſs the Atrocity of the Crime be ſuch, as may Induce the Church to Surrender them,

them. This Privilege is alſo Extended to the Houſes and Palaces of Biſhops. The Temple of *Jeruſalem* was Built by GOD's Direction, it was Dedicated by Man, and GOD's Acceptation of it was Teſtifyed. It appears by *John* 2. 19. That it was an Illuſtrious Type of CHRIST's Body, and by the 16 *ver.* we find that our LORD Reſented the Profanation of that Holy Place. Yet, notwithſtanding of all that, GOD doth ſo Abhorr Proud and Malicious Sinners, that He Commands them to be taken from His Altar that they may Die, *Exod.* 21. 14. and *Joab* was ſlain in the Tabernacle of the LORD, 1 *Kings* 2. 31. But that ſpecial kind of Reſpect which was due to that Hallowed and Typical Temple, is not Communicate, Extended or Confined to the Places of Worſhip under the New Teſtament, *John* 4. 21.

Perſonal Immunity, how far allowed to Miniſters.

§ 2. Likeways by the Canon Law, there is another Immunity or Privilege, called *Perſonal*, granted to the Clergy, ſuch as, that they are Excuſed from Accepting to be Tutors or Curators, and that none in Sacred Orders ſhall be liable to the Payment of publick Burdens. I acknowledge, Miniſters ought not to be ſo Impoſed upon as to be perplex'd with ſecular Affairs, and far leſs ſhould they ever do it of Choice: And albeit the Vocation of a Paſtor, his Commiſſion and Inſtructions relating thereto, be all of a Spiritual Nature, and of Divine Original, yet their Perſons, Eſtates and Behaviour, conſidered in a Civil Capacity, are, according to Scripture and Reaſon, Subject to the Civil Government. Their Perſons are accounted ſo Sacred among our People, and they judge themſelves ſo Secure from that Venerable Impreſſion, they very well know, is generally received of their Character, that they rarely make Ordinary Journeys with Arms, as Gentlemen and other Travellers do. They are by Law ſtill Exeem'd from attending the King's Hoſt, except the Nation become ſo Miſerable, that Neceſſity or their own Security

Oblige them: And even in that Extraordinary Case, they may, if they please, only Act in the Army as Ministers or Chaplains. Since the Year 1689, Both Poll and Hearth-Money have been Imposed upon Ministers by Authority of Parliament.

When Churches & Stipends are to be United.

§ 3. By the Canon Law on this Title, Two Churches may be made One, when the Maintenance is so Inconsiderable, that Two Pastors can have no Comfortable Living upon them, or when One of them is become Desolate by the Sword of an Enemy, or the Number of Parishioners Small or very much Diminished. In which Case it would be for the Greater Good of the Church, if Two such small Charges were Reduced into One, providing the Benefice of the small Charge, now United, be not Condemn'd to any Secular or other Use, but only Applyed to Maintain a Pastor in a new Erection, or else a Collegue in some Numerous Congregation: for two Competent Stipends are not to be United, till there be no need for any New Erection or Augmentation in the Church.

When Presbyteries may Authorize Partial Union, or Transplantation of Churches.

§ 4. If the Heretors and Elders of Two Church Sessions shall agree to the Uniting of some Parts or Skirts of one of the Parishes to another, or to Transplant the Church from one part of the same Parish to another part therein, for the Peoples greater Ease and Convenience. In that Case, the Presbytery upon Application of the Parties Concerned, may, for any of these Ends, Interpose their Authority to their Agreement, providing they find it may tend to the greater Ease and Edification of the People: And providing there be still two distinct Parishes, and the Quantity and Quality of both Stipends preserved Un-diminished and Unaltered. What I here propose, is conform to the 5th *Art. Cap.* 7. of the *French* Church Discipline, in these Words, 'The Colloquies and Synods 'shall Deliberate of Limiting the Extent of Places where-'in each Minister shall Exercise his Ministry.

TITLE XIII.

Of Churches, Church-Dikes, Manſes, Yards, Glebes, Bells, Utenſils, Ornaments, Books, and High-Roads to Churches.

What a Church is. And by whom to be Repaired.

§ 1. CHurches are Publick Houſes Erected for Publick Divine Worſhip, and for hearing the Preaching of the Word of GOD; They are to be Repaired out of the Vacant Stipend: For that 18 *Act*, *Jam.* 7. *Par.* 1. is never yet in ſo far Reſcinded. And when the Vacant Stipends fail, the Burden of Building and Repairing the Church doth ly upon the Heretors, whether Reſiding in the Pariſh or not; The Majority of theſe that meet, muſt Stint themſelves for that Effect, according to their Rents. But if the Heretors Refuſe, being Required thereto by the Miniſter from the Kirk-Seſſion; The Lords of Seſſion upon a Bill given in by the Miniſter will grant Warrant to him and his Seſſion to Conveen at a certain Day, for trying what Sum will Repair the Church, and to Stent the Heretors in that Sum conform to their valued Rents, and to appoint a Collector to Uplift the ſame. But before the making up of that Stent-Roll, the Heretors ought again to be publickly Advertiſed to meet, and then to make the ſame. If after this Order is uſed, they Fail, the Seſſion then concludes the Stent, and Letters will be Direct at their Collectors Inſtance againſt the Heretors for paying the Proportions they are Stented in, *Stair's Inſtit. page* 192, and *Act ult. Par.* 3. *Jam.* 6.

Church-Yards, and Yard-Dikes.

§ 2. Church-Yards are Dormitories for Humane Bodies, and ordinarly that Spot of Ground within which the Church ſtands. Our Law allows to Church-Yards equal

Privileges

Privileges with Churches in many things; particularly, that the raiſing of Tumults or Frayes in time of Divine Service in Churches, or Church-Yards, is Puniſhed with Loſs of Moveables, *Act* 27. *Par.* 11. *Jam.* 6. The Church-Yard is Fenced with Dikes, partly for Ornament, and partly as a Preſervative to the Dead Bodies from being Digg'd up or Violented by Beaſts. The only Right that Miniſters have to the Graſs growing in the Church-Yards, is, that they may cauſe their Servants Cut it, and hinder others from doing ſo: The Heretors are Obliged to Repair the Church-Yard-Dikes with Stone and Morter, two Ells high, with ſufficient Stiles and Entries. And the Lords of Seſſion are Obliged to Direct Letters of Horning againſt them for that Effect, *Cap.* 232. *Par.* 15. *Jac.* 6.

Who are liable to Build and Repair Manſes.

§ 3. The Miniſter at the ſight of the Preſbytery, or ſuch of their Number as they ſhall Appoint, with two or three Diſcreet Men of the Pariſh, may Build or Repair his own Manſe upon the Expenſes of the Heretors and Life-Renters, who are Reſpectively liable to Re-imburſe him, of what he Truely and Profitably hath beſtowed that way, unleſs they offered to Contribute their own Materials, and he Refuſed them: See *Mackenzie*'s Obſervations on the 48 *Act*, *Par.* 3. *Jac.* 6. Where there is a Competent Manſe already, the Heretots muſt Repair it once ſufficiently at the Miniſters Entry, who is thereafter to Uphold the ſame during his Incumbency, and they out of the Vacant Stipend, in time of the Vacancy. *Act* 21. *Par.* 1. *Seſſ.* 3. *Car.* 2. As the Miniſter is Obliged to Leave the Manſe in as Good Condition as he Entred to it, ſo before he can be made Liable ſo to do, the Heretors ought to move the Preſbytery to paſs an *Act* in their Favours, to Declare it a Free Manſe; But before they can paſs any ſuch Act, a Committee of their Number muſt Viſite it, after it is Built or Repaired, and find upon the Depoſitions of Four Diſcreet Work-men who

who underſtand that Work, but have not been imployed therein, two whereof to be choſen by the Heretors, and other two by the Miniſter, that the Building or Reparation is ſufficiently finiſhed. And if there be any Materials left, or Money remaining not expended, after that is declared, the *Superplus* belongs to the Heretors. If the Miniſter be not able or willing to advance that Money which has been declared to be Neceſſary for Materials and Workman-ſhip, or if Heretors refuſe to meet and Stent themſelves for that effect, then what ſhould hinder the Miniſter to take the ſame Courſe, and obtain the ſame Redreſs that is granted againſt Refuſers to Build or Repair Churches, as in § 1. & 2.

How much Expenſe and Ground for Manſe, Yard, and Glebe.

§ 4. It is Uſual to allow half an Acre of Ground for Manſe and Yard. The Manſe is not to Exceed 1000 pounds nor to be under 500 Merks of Value. Miniſters hold their Manſes & Glebes of none but the King. Glebes are to Conſiſt of Four Acres of Arable Ground, failing of which Sixteen Soumes Graſs of the beſt and moſt Commodious paſturage of any Kirk-Lands within the Pariſh. *Jac. 6. Par.* 18. *Cap.* 7. And by the 21 *Act Par.* 1. *Seſſ.* 3. *Car.* 2. Miniſters (excepting Miniſters of Burghs Royal where there is no Land-ward Pariſh, and who have no right to Glebes) are to have Graſs for One Horſe and two Kine, or elſe that the Heretors pay to the Miniſter Twenty pounds Yearly.

£1000
£ 333: 6: 8.

Deſignation of Ground for Manſes and Glebes.

§ 5. Manſes and Glebes where they have not been Deſign'd, or not the full Quantity, are now Deſigned by the Presbytery, or their Committee with two or three diſcreet Men of the Pariſh. The Miniſter or a Procurator in his name, receives Infeoftment therein from the Moderator, upon which he takes Inſtruments in the hands of a Notar, or of the Clerk of the Preſbytery. And upon a Petition given in by the Miniſter to the Lords of Seſſion, with the Act of Deſignation and Inſtrument, they will Interpoſe their Authority for Removing the Heretors and Poſſeſſors of the Lands Deſign-

ed

ed in the terms of the 48 Act *Par.* 3. *Jac.* 6. by granting Letters of Horning to Charge them to Remove within Ten days. And Glebes are designed with freedom of Foggage, Fewel, Feal, Divat, Loaning, free Ish and Entry, and other Privileges according to use and wont. *Jac.* 6. *Par.* 13. *Cap.* 161.

How the Heretor of the Lands designed obtains Relief.

§ 6. The Proprietors of the Lands designed must get Relief *pro rata*, off the rest of the Heretors of Kirk Lands within the Parish, if the designation was out of Kirk-Lands, and they not being the Glebes and Manses of old pertaining to *Parsons* or *Vicars*: for there is no Relief Competent to the Feuers or Tacksmen of such Lands, except only against such as have Feus of other parts of the said old Glebe or Manse *Act* 199. *Par.* 18. *Jac.* 6. When the designation is out of Temporal Lands, the rest of the Heretors of the like Lands are to Contribute Proportionally for Relief thereof.

Seats common and particular, how acquired, and how burdened.

§ 7. It would look more Impartial like, and resemble more that Humility, Love, and Simplicity recommended to Christians by the Apostle (*Jam.* 2. 1.) and would look liker the Subjects of Christ's Kingdom which is not of this world, if Church Members would take their Seats in the Church without respect to their Civil Character, as they do at the Lords Table. Some Seats are Built and Repaired at the general Charge of the Parish in which all have a Common Interest; And there are others which particular Heretors have built for their own use with Consent of the Kirk-Session, or which they have prescribed a Right unto by fourty Years Possession. In several Burghs Royal within this Kingdom, the Disposal of all the Church Seats, at least upon the Bounds at first allotted to them for their inhabitants by the Kirk-Session, is thereafter Order'd and parcel'd out by the Town-Council, and Burden'd with certain yearly Sums for a Ministers Stipend, and where the Seats are Disposed upon to Burgesses without that Burden,

and

and it be found that without it there cannot be a Competent Stipend to the Miniſters. The Diſpoſitions and Rights ſo made, may, no doubt, be Reduced on that Head; for it was never the Intention of the Church Seſſion, who gave theſe Rights, to Authorize an Abſolute Alienation of Seats to the obſtructing and preventing Funds, for Maintaining the publick preaching of Gods Word.

Beddals ſhould keep the Keys of Seats; And why.

§ 8. The Keyes of Seats are to be kept by Beddals, that when the proprietors are abſent, ſuch as want Seats, or throng the Seats of others, may be Accommodated for the time; But in Caſe the Owners be ſo little Concerned with Religion as not to Countenance the publick Worſhip of God, or Averſs to ſerve ſuch as Attend upon it with their empty Seats, the People that want Accommodation cannot be blamed to poſſeſs and occupy that void in their abſence. And if the Owners, or others by their Order ſhall offer to diſpoſſeſs them Violently, eſpecially in time of Divine Service, they ſhould be proſecuted as Diſturbers of publick Worſhip, both before the Civil Magiſtrate and Church Judicatories.

Who are the Proprietors of Bells, Books, &c.

§ 9. The Heretors are bound to pay for, and are Stated in the property of the Bells, Books, Utenſils, and Ornaments of the Church: But the Miniſter and Kirk-Seſſion, to whoſe Cuſtody they are Committed, may purſue for any of them that are Abſtracted. A Charge for a Stent Impoſed for buying of Bells to a Church within a Burgh Royal hath been ſuſtained againſt the Land-ward Heretors, albeit the Burgeſſes and Indwellers would have more Advantage by them, *vide* The new Treatiſe, *On Church Lands*, *Pag.* 212.

Kirk-Roads.

§ 10. Every one muſt have ſome way to the Church, but cannot pretend to any ſpecial way, as the neareſt, through another man's Land, without proving Immemorial Poſſeſſion, which is reckoned Fourty Years, of ſuch a Gate or Paſſage. And to make up this Immemorial Poſſeſſion, a

perſon will be Allowed to Conjoin his predeceſſors Poſſeſſion of that Road with his own. *Vide* the forcited Book *Ibid.*

TITLE XIV.

Of Tithes, Stipends, and Mortifications.

What is meant by Stipend, Benefice, and the Churches Patrimony.

§ 1. THE Maintenance belonging to Miniſters for their Labours we call Stipends, but more commonly and by the Canon Law they are named Benefices. *Calvin*, in his *Lexicon Juridicum* tells us, that the Rewards and Privileges given and granted of old to Souldiers for their Service, were called *Benefices* and *Stipends*. The Canoniſts define a Stipend or Benefice thus, *Eſt jus perpetuum percipiendi fructus ex bonis Eccleſiaſticis, propter aliquod officium ſpirituale, auctoritate Eccleſiæ conſtitutum.* Whatever belongs to Church-men is likeways called the Patrimony of the Church, the word ſignifying an Inheritance left by a Father; Becauſe when Legiſlators or private perſons do Authorize or Deſtinate ſuteable Encouragement for the Comfortable Life of Church-Guides and Paſtors, they do, in ſo far, act the part of Nurſing Fathers unto the Church, in the 9 *Chap.* of the Policy of the Kirk, they Comprehend under the Churches Patrimony, all things given, or to be given to the Kirk, and Service of God, as Lands, Buildings, Poſſeſſions, Annualrents, and all ſuch like wherewith the Kirk is Doted, either by Donations, Mortifications, or any other Lawfull Titles, together with the continual Oblations of the Faithful; As alſo Teinds, Manſes, Glebes and ſuch like, which by Common and Municipal Laws, and Univerſal Cuſtoms are poſſeſſed by the Kirk.

Kirk. And to take any of this Patrimony and convert it to the particular and private Uſe of any Perſon, is reputed a deteſtable Sacriledge before God, by our Church.

That Stipends are due, and how much is Competent.

§ 2. The Work of the Miniſtery is a Warfare, and it is not ordinary for Souldiers to maintain themſelves without Pay, 1 *Cor.* 9. 7. and the Light of Nature teacheth that the Labourer is worthy of his Hire. By the 42 *Article* of *Cap.* 1. *French Church Diſcipline*, It is found, that Miniſters who are Rich, and have of their own, ſhould nevertheleſs take Wages of their Flocks, leſt their Example do prejudice to other Paſtors and Churches. And *M'kenzie* and *Stairs* in their *Inſtitutions* do maintain that ſome part of our Goods is due, by Divine Right, towards the Maintenance of the Clergy, but that the Proportion may be determined by Humane Laws, according to Circumſtances. By the 19 Act of *Parliament* 1633. all Miniſters are appointed to be provided with ſufficient Stipends, being eight Chalders of Victual, or eight hundred Merks at leaſt, beſide Manſe and Glebe, except in ſingular Caſes referr'd to the Commiſſion for Plantation of Kirks. In ſome Places of *Scotland*, Miniſters may maintain their Families for leſs than the half, which muſt be allowed to maintain the ſame Families in other Parts of the Kingdom. Seing Miniſters do deny themſelves to the Gain of Civil Imployments, whereby they might have a more unlimited Proſpect, not only of maintaining their Families, but of purchaſing Stocks for their Poſterity, therefore the *Dutch* Cuſtom is not Unreaſonable, which alloweth to Miniſters ſo much for every Son, in Order to his better Education and Breeding.

Tithes the Fund for Stipends.

§ 3. The Canon Law defines Tithes thus, *Eſt quota bonorum mobilium, licite quæſitorum, pro ſacerdotibus Dei, Ipſius locum in terris tenentibus, tam Divina quam humana conſtitutione debita.* Miniſters Stipends and Augmentations thereof are Legal Burdens, and the main one to which Teinds are lyable, againſt which no Title or Right what-

ſoever can ſecure. And the Truth is, till once the Pariſh Miniſter is ſufficiently provided, no Perſon can ſafely buy his own Teinds: For they are alwayes ſubject to be Evicted for that end, by the Common Law and our Cuſtom, even after the Heretor has bought them, *vide* that new Treatiſe on Tithes, *pag.* 340, By *W.* and *M. Parl. Seſſ.* 4. *Cap.*24. It is appointed that Tiends belonging to Their Majeſties by the Aboliſhing of Prelacy, ſo long as they remain Undiſponed: As likewiſe Tiends belonging to Colleges and Hoſpitals, or Deſtinate to Pious Uſes, are not to be Sold, but may only be Valued, and made lyable thereafter for payment of the valued Duties.

Some Tithes cannot be ſold but only valued.

Plantation of Kirks Remitted to the Lords of Seſſion.

§ 4. Former Parliaments Referr'd to their Commiſſions the Plantation of Kirks and Valuation of Teinds: But now, the laſt Seſſion of the laſt Parliament, have in place of all further Commiſſions for ſuch Matters, Impowered and Appointed the Lords of Seſſion to Judge in all Affairs and Cauſes, which by former Laws did pertain to the Cognizance and Juriſdiction of Commiſſions of Parliament: Only they are Reſtricted from Tranſporting of a Kirk without Conſent of moſt of the Heretors of the Pariſh. Every *Wedneſday* Afternoon in time of Seſſion, the Lords meet to call and diſcuſs ſuch Church Cauſes.

How long Church-Men may ſet Tacks.

§ 5. By the 4*th* Act *Parl.* 22. *Jac.* 6*th.* Biſhops are diſcharged to ſet in Tack longer than nineteen Years, and Inferiour Beneficed Perſons for longer Space than their own Lifetime, and five Years thereafter (except the Commiſſion Authorize it) under the pain of Deprivation; And further, the Contraveeners declared Infamous and Incapable of any Church Office. Longer Tacks were ordained to be Regiſtrate within fourty Days, in a particular Book to be kept by the Clerk-Regiſter for that Effect, otherwiſe to be null. And where it is ſaid, that the Inferiour Clergy can ſet Tacks to run five Years after their Deceaſe, that is always to be underſtood with Conſent of the Patron, obtained either

either before or after the Setting of the Tacks: For without that they can ſet but Three Years Tacks, *Act* 15. *Par.* 23. *Jac.* 6. And that the Eccleſiaſtical Rents may ſuffice to their Uſes, all Alienations, ſetting of Feus, or Tacks of the Rents of the Kirk, as well Lands as Teinds, in Hurt and Diminution of the Old Rentals, ought to be Reduced and Annull'd. And likewiſe that in all times coming, the Teinds be ſet to none but to the Labourers of the Ground, or elſe not ſet at all. Vide *Cap.* 12. of the Policy of the Kirk, *ſub fin.*

The Terms of Payment, and Vaiking of Stipends.

§ 6. The Legal Terms of Paying or Vaiking of Benefices and Stipends, are, *Whitſunday*, at which time the Fruits are held to be fully Sown, and *Michaelmaſs*, when they are preſumed to be fully ſeparated: If the Incumbents Entry be after *Michaelmaſs*, and before *Whitſunday*, he hath that whole Year, if after *Whitſunday* the half of that Year: Or if he Die, be Depoſed, or Tranſported before *Whitſunday* he hath no part of that Year, if after *Whitſunday* and before *Michaelmaſs*, he hath the Half of that Year.

Benefices vaik upon Intimation of the Sentences.

§ 7. Albeit a Benefice Vaik when a Miniſter is Depoſed, yet till the ſame be Intimate, the Pariſhioners may pay their Stipends in to him, and his Diſcharges will Defend them. But after Intimation is made, no Payment will be ſuſtained. *Vid.* Stair's *Inſt. pag.* 151.

Annat, *what it is, and to whom it falls.*

§ 8. The *Annat* due to the Executors of Deceaſt Miniſters, is Declared to be Half a Years Rent, over what is due to the Defunct for his Incumbency, to wit, if he ſurvive *Whitſunday*, the Half of that Year is due for his Incumbency, and the other Half for the *Ann*: And if he ſurvive *Michaelmaſs*, the whole Year is due for his Incumbency, and the Half of the next Year for the *Ann*, And the Executors need not to Confirm it, *Par.* 2. *Seſſ.* 3. *Cap.* 13. *Car.* 2. neither can it be Diſponed to Strangers by the Defunct, nor Affected by his Creditors, for it did

did never belong unto him, it being only a Gratuity which the Law Indulgeth, upon the Account that Miniſters are ſuppoſed not to die Rich. The *Annat* Divides betwixt the Relict and the neareſt of Kin, if there be no Children, and is Extended to the Profite of the Glebe, if there be no new Intrant: But where there is an Intrant, the Glebe belongs to him, and is no part of the *Ann*, nor did belong to the former Miniſter, unleſs it was ſown by him, and the Crop upon it at the Entry of the Intrant, *Vid.* Stair's *Inſt. pag.* 306.

The Priviledges of Proceſſes for Stipends.

§ 9. General Letters of Horning (ſo called, becauſe they do not Expreſs *Nominatim* the Perſons to be Charged) are Allowed upon Decreets of Locality. *Act* 13. *Seſſ.* 2. *Par. W.* and *M.* And theſe Letters are Effectual, not only againſt the Perſons Decerned in the Decreets, but alſo againſt their Heirs and ſingular Succeſſors poſſeſſing the Lands Affected with the Locality. But Summar Horning was not ſuſtained at the Inſtance of a Miniſter's Executor for his Stipend. Miniſters Poinding for their Stipends need not to carry the Goods to the Market-Croſs of the Head-Burgh of the proper Juriſdiction, but may Comprize them on the Ground where they are, by Honeſt ſworn Men. *Act* 21. *Seſſ.*3. *Par.*1.*Car.*2. No Suſpenſions of ſpecial Decreets for Miniſters Stipends can paſs, Except upon production of Diſcharges, or upon Conſignation of the Sums Charged for; and if Victual be the Subject of the Charge, One Hundred *Merks* muſt be Conſigned for each Chalder, and proportionally where leſs than a Chalder is Charged, without Prejudice to the Lords of Seſſion to Modify more or leſs at the Diſcuſſing, *Act* 6.*Seſſ.* 1. *Par.* 2. *Car.* 2. Actions for Miniſters Stipends Commenced in Inferiour Courts cannot be Advocated. Suſpenſions of and Actions for them before the Seſſion are Diſcuſſed Summarily, without abiding the Courſe of the Roll; And Suſpenders, againſt whom Letters are found Orderly Proceeded,

ſhould be Decerned in a Fifth part more at leaſt, than the Sums Charged for to pay the Miniſters Expences and Dammage, *Act* 27. *Seſſ.* 5. of K. *W. Par.*

§ 10. Albeit the Power of preſenting Miniſters by Patrons to Vacant Churches be Diſcharged, yet that is but prejudice to them of their Right to Imploy the Vacant Stipends on Pious Uſes within the Reſpective Pariſhes, except where the Patron is Popiſh, in which Caſe he is to Imploy the ſame on Pious Uſes, by the Advice, and at Appointment of the Preſbytery; And in caſe the Patron ſhall Fail in Applying the Vacant Stipends for the Uſes foreſaid, that he ſhall loſe his Right of Adminiſtration of the Vacant Stipend for that and the next Vacancy, and the ſame ſhall be Diſpoſed upon by the Preſbytery to the Uſes foreſaid. Excepting always the Vacant Stipends within the Bounds of the Synod of *Argyle*, which Synod is Impowered to Diſpoſe thereof for Training up of Youth at Schools and Colleges, and for other Pious Uſes with Conſent of the Heretors, W. *and* M. *Par. Seſſ.* 2. *Acts* 23. 24.

Who Diſpoſe on Vacant Local Stipends; and for what Uſes.

§ 11. Miniſters Stipends preſcribe, *quoad modum probandi*, if not purſued within Five Years after the ſame are due: ſo that after that time they cannot be proven to be reſting unpayed. Except by the Defenders their Oaths, or by a ſpecial Writ under their Hands Acknowledging what is Reſting.

Stipends, quoad modum probandi, preſcribe in five Years.

§ 12. A Miniſter having Charged for the payment of the Bolls contained in his Decreet of Locality, the Debitor was Ordained by the Lords to Depone upon the Prices he got; albeit he had offered the Fiars by way of Inſtrument within ſeven Days after the Charge, and produced Receipts of the Charger and his Predeceſſors, for Inſtructing that they were not in Uſe to Uplift the Rolls *in ipſis corporibus*. It ſeems as Unreaſonable to Oblige a Miniſter to Accept the Fiars from the Heretors, as it were to Oblige

How bygone Victual Bolls are liquidate.

blige the Heretors to Accept the Fiars from their Tennents. Yet I think the liquid Price of Vacant Stipends according to Cuſtom, is the Fiar of the Reſpective Shires, *vid.* that forecited *Treatiſe* on *Tithes*, pag. 427.

According to what Meaſure, Stipends are to be payed.

§ 13. The Bolls contained in a Miniſter's Decreet, if no Meaſure be therein ſpecified, ſhould be payed according to *Linlithgow*'s Meaſure: Unleſs the Miniſter hath been Thirteen Years in Poſſeſſion of Uplifting according to another Meaſure, or the Modifyed Stipend would fall ſhort of the Quantity in the Act of Parliament by *Linlithgow* Meaſure: For in that caſe the Miniſter ought to be payed conform to the *Meaſure* of the Shire within which the Pariſh lyes, *Vide* that Treatiſe *on Church-Lands*, *page* 428.

Eccleſiaſtical Penſions, what.

§ 14. An Eccleſiaſtical Penſion is a certain Portion of Yearly Rent payable for a Time out of another's Benefice. Eccleſiaſtical Penſions ſeem to have been Introduced at firſt, as a mean of Subſiſtence to Incumbents, who through Sickneſs or Infirmity of Old Age were turned Unable to Officiate: For ſuch were allowed to Reſign their Benefices, reſerving to themſelves Penſions out of them, as they might Live upon ſuteably to their former Character. As Church-men turned afterwards more Degenerate, and Benefices became Merchandize, Reſignations and Penſions upon Trivial Reaſons were ſuſtained, *Vide* Book foreſaid, *Page* 160.

Plurality of Benefices not to be tolerated in a Conſtitute Church, and why.

§ 15. The Paſtoral Charge, or the Office of Profeſſor of Theology in Schools, is of that Weight and Conſequence, that to Diſcharge any one of them ſatisfyingly, will be Exerciſe enough to any Honeſt Man, however ſufficient, all the Days of his Life. By the Canons of the Synod of *London*, *October* 25. 1597. In Bp. *Sparrow*'s Collections, The Extraordinary Parts and Merits of ſome is pretended for a Ground to diſpenſe with a Plurality. This were Relevant to be practiſed for ſome time *in Eccleſia*

cleſia conſtituenda, where gifted Men are Rare: But to continue that Cuſtom *in Eccleſia conſtituta*, where Gifts do abound, it were to neglect both the Maintenance, and likewiſe the Gifts of God that He hath beſtowed on ſome, and to Over-value the Gifts He hath given to others, and hinder them from diſcharging of the Duties belonging to one Office eminently. There were in Chriſt's Time abundance of idle Phariſees, Scribes and Prieſts, that ſpent their time in teaching the People their Rites, Ceremonies and Traditions: But there were always but a few Labourers in God's Harveſt; Hence *Chryſoſtome* thought that but few Miniſters will be ſaved. What Man or Angel is ſufficient for the Miniſterial Work! But their Sufficiency is of God.

Mortifications under the Presbyteries Inſpection.

§ 16. By the 22*d* Act Aſſembly 1700. Presbyteries are to take notice, how Sums of Money mortified, or otherwiſe belonging to the Poor of the Pariſh have been managed and applyed from time to time, and if they ſhall find Dilapidations of any ſuch Sums, that thoſe guilty thereof be purſued according to Law, and the Synods are to ſee to the Preſbyteries Diligence herein.

Pious Donations muſt be applyed as they were deſtinate by the Diſponer.

§ 17. By *Cap.* 6. *Par.* 1. *Car.* 1. Gifts, Legacies, or Donations for Pious Uſes, muſt not be Inverted from the ſpecifick Uſe deſtinate by the Diſponer, and the Perſons Intruſted are made countable for the ſame, and ordinary Profits thereof to the Kirks, Colleges, and others to whom they are diſponed, and this is Extended to all ſuch Diſpoſitions as have been made ſince the Majority of K. *James* the 6*th*, and that Letters be thereon Direct.

Mortifications ought not to be accepted in prejudice of Blood Relations.

§ 18. That forecited Book *On Church Lands*, *pag.* 107. tells us, That *Charles* the Great diſcharged Eccleſiaſticks to accept of Mortifications whereby Children would in effect be Diſ-inherited. So good *Auguſtine* refuſed Univerſal Legacies in favours of his Church, when the Teſtator left Children or Parents who might be prejudged and ſuf-

fer thereby. Nor was this Generosity of his Singular, for a certain Man having no Children, nor Hopes of any, having gifted his Estate to the Church of *Carthage*, only with the Reservation of his own Liferent, *Aurelius* the Bishop Reponed him to his former Right, upon the unexpected Birth of a Son.

The Rectifying of Popish Mortifications commendable, but not their Misapplication, or Extinction.

§ 19. By the 29*th* Act *Parl.* 11. *Jac.* 6*th*, Popish Benefices are annexed to the Crown or converted into Civil Uses. Consider that these Mortifications were fraudulently elicited from Persons imposed upon by Ways and Means of Priest-craft; And that they had been Originally Destinate to maintain an Idolatrous and Superstitious Worship. Now, it being the publick Interest that none make a wrong, far less a sinful Use of their Property: It is Incumbent on the Orthodox Magistrate, to Convert what was Mortified and fraudulently Obtained for Maintenance of Idolatry, to the Maintenance of the true Worship of God: And in case there shall happen any Excrescence, over and above what may support the same, and the Ministers thereof Comfortably, then may not that be applyed for some honest and necessary Use in the Republick, until the Affairs of the Church require the same again? This is confirmed by the Policy of the Kirk, *Cap.* 12. *Art.* 14.

Visitors of Hospitals and Mortifications to be named by the Sovereign.

§ 20. The Visitors of Hospitals are to be appointed by the Sovereigns, Act 101. *Parl.* 7. *Jac.* 5. and accordingly by *W. Par. Sess.* 6. *Cap.* 29. there is a Recommendation to His Majesty to cause Visit Hospitals, and Inquire after Mortifications. This is renewed *Sess.* 9. *Cap.* 21. It would seem by the 27 *Act Parl.* 2. *Jac.* 1. That Actions for bringing Patrons and others to count for their Intromissions with the Rents of Hospitals, may be Intented at the Chancellor's Instance, especially in case no Royal Visitation be appointed.

A fourfold Distribution of the Patrimony of the Kirk.

§ 21. In the 9*th* and 12*th* Chapters of the Heads of Policy of the Kirk, they allow of a fourfold Distribution of the Churches Patrimony; One Portion thereof to be assigned

ſigned to the Paſtor for his Intertainment and Hoſpitality: Another to the Deacons, Elders, and other Officers of the Kirk and Kirk Servants, ſuch as Clerks of Aſſemblies, Takers up of Pſalms, Beddals, and Kepeers of the Kirk, joyning with them alſo the Doctors, and Schools, to help their old Rents where Need requires. The third Portion to be beſtowed on the poor Members of the Faithful, and on Hoſpitals. The fourth for Reparation of Kirks, and other extraordinary Charges as are profitable for the Kirk, and alſo for the Common-wealth if Need require.

Patrimony of the Church collected by Deacons, and why. They are to find Caution.

§ 22. In the 12*th Chap.* of that Book of Diſcipline, the Collection and Diſtribution of all Eccleſiaſtical Goods or Patrimony, properly belongs to the Office of the Deacons, (ſee the Title of *Deacons*) that the Poor may be anſwered of their Portion thereof, and they of the Miniſtery live without Care and Sollicitude, as alſo the reſt of the Treaſure of the Kirk may be reſerved and beſtowed to their right Uſes. If theſe Deacons be elected with ſuch Qualifications as God's Word requires, there is no fear that they will abuſe their Office. Yet becauſe the giving ſo great Truſt to them, appeareth to many to be Dangerous, let them be obliged to find Caution for their Fidelity, that the Kirk Rents be no way Dilapidated.

The End of the Second BOOK.

BOOK III.

TITLE I.

Of Apoſtacy, and Atheiſtical Opinions of Deiſts.

§ 1. APoſtates are theſe who altogether Deſert the Chriſtian Faith, Yet ſometimes they are taken for ſuch as Deſert that Holy Faith to which they are Engaged at Baptiſm, and become Profeſſors of a Falſe Religion. All Hereticks are not Apoſtates. *What an Apoſtate is.*

§ 2. By the 21 *Act* of *Aſſembly* 1696, all Miniſters are Injoyned, where there is any apparent Hazard of Contagion from ſuch Perſons as are of Atheiſtical Opinions, to detect the Abominableneſs of their Tenets, ſuch as, The Denying of all Revealed Religion, and the Grand Myſteries of the Goſpel, *viz.* The Doctrine of the Trinity, the Incarnation of the Son of GOD, His Satisfaction to Divine Juſtice, Juſtification by his Imputed Righteouſneſs to them who Believe in His Name, The Reſurrection of the Dead, and in a Word, the Certainty and Authority of all Scripture Revelation; As alſo their Aſſerting, that there muſt be a Mathematical Demonſtration for each Purpoſe *The Atheiſtical Opinions of Deiſts, what.*

Purpoſe before we can be obliged to Aſſent thereunto, and that Natural Light is ſufficient to Salvation.

The Puniſhment of ſuch Deiſts.

§ 3. By the 11th *Act* of K. *W. Par.* 1695, It is Ordained, that whoever ſhall in their Writing or Diſcourſe Deny, Impugn or Quarrel, Argue or Reaſon againſt the the Being of GOD, or any of the Perſons of the Bleſſed TRINITY, or the Authority of the Holy Scriptures, or the Providence of GOD in the Government of the World, ſhall for the firſt Fault be Puniſhed with Impriſonment, ay and while they find Bail to give publick Satisfaction in Sackcloath to the Congregation within which the Scandal was Committed; And for the ſecond Fault, the Delinquent ſhall be Fined in a Years valued Rent, and the Twentieth Part of his Free Perſonal Eſtate, beſides his being Impriſoned, ay and while he give Satisfaction again *ut ſupra*; And for the Third Fault, he ſhall be Puniſhed with Death as an Obſtinate Blaſphemer. *Vid.* Tit. *of Blaſphemy.* Accordingly one *Aikenhead* was Hanged for that Crime betwixt *Leith* and *Edinburgh* about Twelve Years ago. All Judges and Miniſters of the Law are Injoined to Execute this Act for the firſt Fault, and all Inferiour Magiſtrates of Shires, Regalities, Stewartries, and their Deputes, and Magiſtrates of Burghs are to Execute this Act as to the ſecond Fault, and as to the third Fault, the Execution thereof is Remitted to the Lords of Juſticiary.

TITLE II.

Of Papiſts, Quakers, and Bourignianiſts.

Heretick's who they are.

§ 1. ACcording to the Canon Law, *Hæretici ſunt illi qui vanæ gloriæ principatuſque ſui cauſâ, falſas Opiniones gignunt vel ſequuntur.* Anciently the

the Word *Hæresis* was taken for a firm Opinion, whether the same was Good or Bad. It is Committed by Christians when they pertinaciously propogate or follow Opinions contrary to the Received Fundamental Doctrine of the Church.

Punishment of Heresy.

§ 2. That no Man should be Compelled by Temporal Punishments to profess the true Faith, is a Doctrine Universally Received among the Reformed Churches. It is *Crimen mere Ecclesiasticum*, at least as to it's Cognition *primâ instantiâ*. The Reformed Churches never Deliver any they find Hereticks to the Civil Judge, or rather, according to the Imployment given the Judges by Papists, the Civil Executioners. One continuing a Heretick ought to be Rejected and Excommunicated, Compare *Tit.* 3. 10. with 1 *Tim.* 1. 20. Our Sovereigns by their Coronation Oath, are to Root out all Hereticks, that shall be Convict by the true Kirk of GOD, from their Empire of *Scotland*, which doth not Oblige them to Persecution, nor to pay blind Obedience to the Church, but only it binds them, at least chiefly, to Execute the Laws against Papists, who are declared common Enemies to all Protestant States, *Jac.* 6. *Par.* 16. *Cap.* 18.

Act of Parliament against Papists.

§. 3. The severity of our Laws against Papists will be further justified, if we consider, that by the Law of GOD Idolaters were to be put to Death, *Deut.* 17. and agreeable thereto, Popish Idolaters are to be punished with Death, by the 104 *Act Parl.* 7. *Ja.* 6. by *Ja.* 6. *Parl.* 6. *Cap.* 71. Persons going out of the Countrey for further knowledge of Letters, are to have the Kings Licence, which shall contain this Provision, That they shall adhere to the true Religion, and do nothing against it, under the pain of Barratry (which with us is Committed by those who go to *Rome* to buy Benefices, and is punishable by Infamy and Banishment, *Ja.* 6. *Parl.* 1. *Cap.* 2.) And that within Twenty Days after their Return, they make and give before their Ordi-

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nary, the Confeſſion of their Faith as now Eſtabliſhed, or otherways Devoid the Kingdom within Fourty Days thereafter, or be purſued as Adverſaries to the Religion. By *Jac. 6. Par. 7. Cap.* 104. None are to go on Pilgrimage to Kirks, Chappels, Croſſes, or the like, keep Saints Days, Sing *Carols* within and about Kirks, or obſerve other Superſtitious Papiſtical Rites, under the *Pecunial* Pains therein contained, for the firſt Fault, and under the pain of Death to the Continuers therein. By K. *W. Par. Seſſ.* 5. *Cap.* 26. No Papiſt can make any Gratuitous Diſpoſition or Deed in prejudice of their appearand Heirs; Declaring ſuch Diſpoſition or Deed to be Null: And that it be judged Gratuitous, unleſs the Granter, Writer, and Witneſſes, Declare upon Oath before the Judge of the Bounds, That it was Granted for an Onerous Adequate Cauſe, by K. *W. Par. Seſſ.* 9. *Cap.* 3. Theſe above mentioned Acts are Ratified, with all other Laws made againſt Popery and Papiſts, eſpecially theſe againſt Jeſuites, Prieſts, or Tafficking Papiſts, and all Sayers and Hearers of Maſs, and Concealers of the ſame. *Item*, Whoever ſeizes any Prieſt, Jeſuit, or Trafficking Papiſt, or their Reſetters, upon Certificate of the Conviction of the Perſon ſeized by the Judge, ſhall have 500 Merks for his Reward from the *Treaſury*; For which the Receiver General may be purſued before the Lords of Seſſion. *Item*, If it be proven that the ſaid Prieſt, Jeſuit, or Trafficking Papiſt was held in Repute ſuch, or that he changed his Name, and ſhall refuſe the *Formula* of Purgation ſubjoyned to this Act, it ſhall be ſufficient Ground for the Council to Baniſh him, never to return a Papiſt under pain of Death, to be Inflicted by the Lords of Juſticiary. *Item*, If any perſon be found in any Meeting where there is any Altar, Maſs-Book, or other Inſtruments of Popiſh Superſtition, and ſhall refuſe to purge, as above, it ſhall be ſufficient Ground to the Council to Baniſh, under any Certification they ſhall think

think fit, even to that of Death; And whoſoever diſcovers and ſeizes the ſaid baniſhed perſon, after his Return, ſhall have the foreſaid Reward of 500 Merks. *Item*, The 8. *Act Par.* 1. *Car.* 2. is Ratified, and any Proteſtant Relation, or His Majeſties Advocat or Sollicitor, may purſue for the Exhibition and Education of Children in the Keeping of Papiſts: And the Lords of Seſſion are Impowered to Modifie an Aliment out of the Childrens or their Parents Means: And it is Recommended to Presbyteries to Inform in this Matter. *Item*, No Papiſt profeſt, or not purging, can receive any voluntar Deed or Diſpoſition made to him of any Lands, or real Rights, or Tacks of Lands, or Teinds, but the ſame are declared Null, and to remain with the Granter, and no Action for Warrandice or Repetition of the Price. *Item*, No Papiſt paſt the Age of Fifteen Years, can ſucceed either as Heir, or by other Conveyance from the perſon to whom he may be Heir, until he purge himſelf of Popery, as above; And if being Educate in the Popiſh Religion, he ſucceed as above, before the ſaid Age, then he ſhall be obliged to purge before he attain the ſame; And the perſon ſo ſucceeding, failzieing in either of theſe Caſes, Devolves to the next Proteſtant Heir, who is to be Served as ſuch to the Defunct, and to have Right to the Eſtate and Rents, from the ſaid Irritancy, ay and while the perſon Excluded, or his Heir purge himſelf, as above: In which caſe he is to be Reponed as before the Excluſion; The interveening Rents, with the Burden of the current Annualrents of Debts, remaining with the Proteſtant Succeſſor, but this Excluſion to be without prejudice of Creditors before the Excluſion. *Item*, No Papiſt may grant any gratuitous Deed in prejudice of his Heir, but the ſame is declared Null, ſave as to the affecting the Granters Perſon and Moveables: See the forecited 26. *Act. Seſſ.* 5. K. *W. Par.* *Item*, The Proteſtant on whom the Succeſſion Devolves by the ſaid Excluſion, muſt proſecute his

Right within two years, elſe it falls to the next, and ſo on. *Item*, The Papiſt and his Heir muſt Renounce Popery within ten years, after the ſaid Irritancy (Minority not reckoned) or is to be Excluded for ever; And the Eſtate thus Devolving, Devolves with all its lawful Conditions and Burdens. *Item*, No voluntar Right by a Papiſt in favours of his appearand Heir alſo a Papiſt, ſhall be of Force, tho' prior to this Act, unleſs Cled with Infeftment or Poſſeſſion, or proceeded in Judgment prior thereto. *Item*, All Diſpoſitions or Deeds in Favours of Cloyſters, or other Popiſh Societies, are declared Void, and to accreſce to the next Proteſtant Heir to the Granter. *Item*, No Adjudication is to expire in the perſon of a Papiſt, but coming in the perſon of a Proteſtant, the Legal being run, it Expires within Year and Day thereafter, and no Adjudication or real Diligence is competent to a Papiſt, upon any gratuitous Bond or Deed. *Item*, That the *Formula* of purgation be taken before the Council, or before the Presbytery, and Reported within Fourty Days to the Council. *Item*, A Proteſtant Apoſtatizing to Popery, Forfaults his Eſtate immediately to his next Heir, being Proteſtant, as if he were Dead; And this next Heir, if in Pupillarity, is to be reckoned Proteſtant, if his Education be ſuch, or if it be Popiſh, he is Excluded until he purge, as above. *Item*, That no ſuſpected Papiſt be capable of any Truſt of the Perſon or Affairs of Minors, and that none imploy them in ſuch Truſts, until they purge as above, under the pain of a years valued Rent, or a Thouſand Merks, if the valued Rent be leſs. *Item*, No ſuſpect Papiſt may Teach any Science, Art, or Exerciſe in Families, or out with, nor may a Proteſtant have a Popiſh Domeſtick Servant, under the pain of Five Hundred Merks, which may be purſued by any Proteſtant, and upon Conviction, to have the ſame for Reward. By the 28. *Act Seſſ.* 6. of K. *Williams Parl.* Whoever perverts a Proteſtant Subject to Popery, ſhall be

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proceeded againſt as a Trafficking Papiſt: That a Proteſtant Servant turning Papiſt in a Popiſh Family, be puniſhed as an Apoſtate, and the Maſter when required is obliged to Diſmiſs that Servant, never more to be received by him, or any other Popiſh Maſter, under pain of an Hundred Pounds; and that Popiſh Maſters allow their Servants due Liberty to attend Worſhip and Catechiſing, under the ſaid pain, and that theſe Servants uſe that Liberty, under the pain of being baniſhed the Pariſh. By the *5th Act 1. Par. Jac.* 6. The Sayers and Hearers of Maſs, or ſuch as are preſent thereat, are puniſhed by Confiſcation of all their Goods, Moveable and Immoveable, and an Arbitrary puniſhment of their perſons for the firſt Fault, Baniſhment for the ſecond, and Death for the third Fault. By the 122. *Act Jac.* 6. *Parl.* 12. The Sayers of Maſs, Reſetters of Jeſuits, Seminary Prieſts, and Trafficking Papiſts, againſt the Kings Majeſty, and Religion preſently profeſſed within this Realm, is, and ſhall be a juſt Cauſe to infer the Crime and pain of Treaſon, providing how ſoon they ſatisfie the Prince and the Kirk, the penalty foreſaid ſhall not ſtrike againſt the Reſetter. By the Declaration of the Eſtates, containing the *Claim of Right, April* 11. 1689. It is Declared, That by the Law of this Kingdom, no Papiſt can be King or Queen of this Realm, nor bear any Office whatſoever therein.

§ 4. The lateſt and moſt comprehenſive Acts of Aſſembly againſt Popery, are theſe, By *Act July* 29. 1640. All Idolatrous Monuments are appointed to be taken down and deſtroyed; and Presbyteries and Synods are to ſee this Work with all diligence performed. This is conform to the 64 and 90 CANONS, *Concil. Carthag. Ut Reliquiæ Idolorum radicitus extirpentur, ſimiliter placuit peti a glorioſiſſimis Imperatoribus, ut reliquiæ Idololatriæ non ſolum quæ ſunt in ſtatuis; ſed quæ ſunt in quibuſvis locis vel lucis vel arboribus, omni modo deleantur.* By Aſſembly 1642, *Seſſ.* 7: and

Acts of Aſſembly againſt Popery.

7. and 1648, *Seſſ.* 38. Presbyteries are appointed to Conveen known Papiſts in their Bounds, and oblige them within a Month, to put from their company Popiſh Friends and Servants, and give their Children above ſeven years of Age, to be Educated at their Charges, by ſuch Proteſtant Friends as the Presbytery ſhall Approve, and find Caution within three Months, to bring Home ſuch of their Children as are Abroad, to be Educated at the ſight of the Presbytery: The Obſtinate are to be Proceſſed *inſtanter*, and thoſe who comply are to confer with Profeſſors in the next Univerſity, in order to their Converſion. *Item*, The Government is to be Supplicate for an Act, that in no Regiment that goes out of the Kingdom, any Papiſt bear Office, andthe Collonel to find Caution for this effect. But the ſubſtance of this deſired Act, is already declared in the *Claim of Right*, and Enacted by 9. *Act Parl.* 1. *Jac.* 6. and the 5 *Act Parl.* 2. *Jac.* 6. By the 8: Act of Aſſembly 1699, They appoint all Miniſters to Study Popiſh Controverſies more. *Item*, That all due Endeavours be uſed to Unite Proteſtants among themſelves. *Item*, That Miniſters faithfully Watch the Flock committed to them, that ſo by publick Preaching, private Inſtruction and Conference, Apoſtacy may be prevented. *Item*, Miniſters are to deal wiſely and convincingly with thoſe who have fallen to Popery, and other corrupt Practices, for their Recovery: *Item*, When other Means are ineffectual, Preſbyteries are appointed to proceed to Church Cenſure. *Item*, That according to the former Acts of Aſſemblies, and Acts of Parliament, the Names of Popiſh Prieſts and Jeſuits, and Trafficking Papiſts, and of thoſe who have ſent their Children to Popiſh Colledges and Countries, be given in to each Provincial Synod, and by them Tranſmitted to the reſpective Magiſtrates, to the effect, they be proceeded againſt according to Law, *Car.* 2: *Par*: 3: *Act* 6: *Item*, The General Aſſembly reſolves, that Application be made to the

the Civil Magiſtrate, as often as need Requires, for the vigorous Execution of the Laws againſt Papiſts, Popiſh School-Maſters, Miſtreſſes, Governours and Pedagogues, and Popiſh Meetings, And for ſeeing to the Training up of Popiſh Youth in the Proteſtant Religion. By the Aſſembly 1704. Scandalous perſons turning Popiſh, or pretending to do ſo, to evite Cenſure, ſhall after due pains to Reclaim them, be Excommunicated. By the 17 *Seſſ.* of *Aſſemb.* 1700. And 9 *Seſſ. Aſſem.* 1703. No private Acknowledgment of a Papiſt's Renouncing that Religion verbally, is to be held Sufficient to Admit them unto Church Priviledges; But their Reception thereunto, muſt be the Deed of a Church Judicatory not below a Preſbytery. By the 8 Act of Aſſembly 1707. It is appointed that the Synod in which theſe Presbyteries are, where Popery increaſeth, do ſometimes ſend Miniſters that are well Acquainted with theſe Controverſies to Aſſiſt the Miniſters of the Bounds in Conferring with the Seduced, and for Eſtabliſhing others. *Item*, Probationers, well ſeen in ſuch Controverſies, are to be ſent to Aſſiſt the Miniſters in theſe parts, in preaching, that they may have the more Time to Inſtruct the People, and watch over them againſt Popery. All which Acts and Recommendations, as to Miniſters Diligence againſt Popery, are Revived by the 4*th* Act of Aſſembly 1708. *Calderwood* in his Hiſtory *Pag.* 594. Tells us of an Act againſt Papiſts made in that pretended Aſſembly holden at *Linlithgow* 1608. wherein they Appoint that at every Service of any perſon as Heir to his Father, or any of his Predeceſſors, he be not ſerved by any Judge without the Teſtimonial of the Biſhop, and Moderator of the Preſbytery, where he dwells, bearing the Confeſſion of his Faith and Integrity in the Religion preſently profeſſed.

§ 5. By the 23*d Article Cap.* 14. of the *French Church Diſcipline*, all Violence and unbecoming Language againſt theſe *Papiſts not to be mocked.*

theſe of the Romiſh Church, and even againſt Prieſts and Friers, ſhall not only be hindred, but alſo wholly ſuppreſſed, as much as poſſibly may be.

Apoſtate & Ring-leading Quakers to be Excommunicated.

§ 6. By the 10*th* Act of Aſſembly 1695. For preventing of the Growth of theſe abominable Hereſies of the *Quakers*, It is Recommended to all Church Judicatories, to uſe all proper Means for Reclaiming of them, and in caſe of their Obſtinacy, to proceed againſt them with the Cenſure of the Church, but eſpecially againſt the Ring-leaders or theſe who have Apoſtatized from our holy Faith.

Errours of Antonia Bourignion *condemned.*

§ 7. The Aſſembly 1701. by their 11*th* Act, Finds, that the Writtings of M. *Antonia Bourignion*, are fraught-ed with Impious and Damnable Doctrines, as they are Repreſented in the *Apologie* for her, condemned by the immediately preceeding Act, which Exhibites to the World an *Epitome* of her Errours in the faireſt Dreſs; Such as, 1. The denying the permiſſion of Sin, and the inflicting of Vengeance and Damnation for it. 2. The attributing to Chriſt a twofold Humane Nature, one of which was produced of *Adam*, before the Woman was formed, the other born of the Virgin *Mary*. 3. The denying the Decrees of Election and Reprobation, and the loading theſe Acts of Grace and Sovereignity, with a multitude of odious and blaſphemous Aſperſions, particularly, Wickedneſs, Cruelty, and Reſpect of Perſons. 4. That there is a good Spirit and an evil Spirit in the Souls of all Men before they are born. 5. That the Will of Man is unlimited, and that there muſt be in Man ſome Infinite Quality, whereby he may unite himſelf to God. 6. The denying of the Doctrine of Divine Preſcience. 7. The aſſerting of the ſinful Corruption of Chriſt's humane Nature, and Rebellion in Chriſt's Natural Will to the Will of God. And 8. The aſſerting a State of Perfection in this Life, and a State of Purification in the Life to come, that Generation takes place in Heaven, that there are no true Chriſtians in the World.

TITLE

TITLE III.

Of Schiſm and Prelacy, and of the Laws and Acts for preventing Innovations and Errours.

§ 1. ACcording to the Canon Law, *Schiſmaticus eſt qui ab Unitate Eccleſiæ ſe ſeparat*, Schiſm is to the Church what a Cutt is to the Natural Body, it may be where no Hereſy in Doctrine is; It is a breaking of that Church Union and Communion which ought to be among her Members. *Schiſm, What.*

§ 2. Schiſm in Church Government is either about the Government it ſelf, or about the Perſons in whom it is lodged, which Difference may occaſion the Erecting of *Altare contra Altare.* Schiſm may be in Worſhip, when both the ſame Doctrine and Government is acknowledged, but Communion is not kept in the Lord's Supper, according to Chriſt's Appointment: This ſeems in part to have been the Schiſm among the *Corinthians*, occaſioned perhaps through the Corruption of ſome Members with whom others have ſcrupled to Communicate. *Schiſm about Church Government.*

§ 3. The Underſtanding having ſuch Influence upon the Will and Affections, and Union having ſo much Intereſt in both, the ſame will be more eaſily attained by perſwaſive Reaſonings than Authoritative Injunctions. Though the Authority of a Church may be Interpoſed to condemn Heretical and Scandalous Members, yet it is rarely found to be the way of Uniting a Rent Church, but rather the way to Govern an United Church: For it often happens, where ſuch Diviſions ariſe, that Parties do reciprocally decline each others Authority: Indeed where Schiſm is only a *When Schiſm is to be proceeded againſt.*

ſpreading,

ſpreading, or but among few, who cannot be otherways gained; In that caſe, the Cenſures of the Church may be more ſuccesfully applyed againſt them.

Prelacy declared to have been abjured, to have been the Cauſe of many Evils. Prelatiſts own that it is but of Men. One of the Cauſes of National Faſts; It never received the Churches conſent.

§. 4. The General Aſſembly by their Act *December* 8. 1638. having conſidered the Proceedings of this Kirk, and Acts of General Aſſemblies in former Years, the Vote was ſtated, Whether according to the Confeſſion of Faith, (*i. e.* the National Covenant) as it was profeſſed in the Years 1580, 1581, and 1590. there be any other Biſhop, but a Paſtor of a particular Flock, having no Pre-eminence nor Power over his Brethren? And, Whether by that Confeſſion, as it was then profeſſed, all other Epiſcopacy is abjured, and ought to be removed out of this Kirk? The haill Aſſembly moſt unanimouſly (one only Heſitating) did Voice, That all Epiſcopacy, different from that of a Paſtor over a particular Flock, was abjured in this Kirk, and therefore prohibites, under the pain of Eccleſiaſtical Cenſure, any to Uſurp, Accept, Defend, or Obey the pretended Authority of Biſhops in time coming. By the Act of Aſſembly *Auguſt* 17. 1639. It is Declared, That the changing of the Government of the Kirk from the Aſſemblies thereof to the Perſons of ſome Kirk-men, under the name of Epiſcopal Government, was againſt the Confeſſion of Faith 1580. againſt the Order ſet down in the Book of Policy, and againſt the Intention, and Conſtitution of this Kirk, and which from the beginning hath been one of the Chief Cauſes of the bygone Evils therein. The Aſſembly in their Anſwer *Auguſt* 9. 1641. to the Engliſh Miniſters, Declare, they are perſwaded Preſbyterial Kirk Government to be of God, and Epiſcopal Government to be only of Men: and they Reſolve to hold the ſame Conſtantly. Again, by their Anſwer *Auguſt* 3. 1642. to the Declaration of the Parliament of *England*, they ſay, The Reformed Kirks do hold without doubting their Kirk Officers and Kirk Government by Aſſemblies Higher and Lower in their

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ſtrong and beautiful Subordination, to be *Jure Divino*, yet Prelacy, as it differeth from the Office of a Paſtor, is almoſt univerſally acknowledged by the Prelats themſelves, to be but an Humane Ordinance ſettled by Humane Law for ſuppoſed Conveniency: Wherefore, by Humane Authority, without wronging any Man's Conſcience, the ſame may be aboliſhed upon ſo great a Neceſſity as is a hearty Conjunction with all the Reformed Kirks. Among the Cauſes of that Faſt appointed by Aſſembly 1690, this is one, That the Government of the Church was altered, and Prelacy Re-introduced without the Churches conſent, and contrary to the ſtanding Acts of our National Aſſemblies. From all which it appears, that the Re-introducing of Prelacy, was always *Lay*, and *Parliamentary* only, and the Government of the Church by Preſbyters was Orderly and Synodically Eſtabliſhed by the Guides and Governours of the Church, her Preaching and Ruling Elders.

Prelacy aboliſhed by the Claim of Right; *Its Toleration Treaſonable.*

§ 5. The Meeting of Eſtates in their *Claim of Right*, *April* 11. 1689. Declare, That Prelacy and the Superiority of any Office in the Church above Preſbyters, is, and hath been a great and inſupportable Grievance and Trouble to this Nation, and contrary to the Inclinations of the Generality of the People ever ſince the Reformation (they having Reformed from Popery by Preſbyters) and therefore ought to be Aboliſhed. In purſuance whereof, It is aboliſhed by the 3*d* Act of Parliament 1689. and by the 3*d* Act of the 1 *Seſſ.* of Q. *A. Parl.* It is Statute and Declared High Treaſon to Quarrel, Impugn, or Endeavour by Writing, Malicious and Adviſed Speaking, or other open Act or Deed, to Alter or Innovate the *Claim of Right*, or any Article thereof: Which Act is as a Hedge about the Revolution Eſtabliſhment: For after the ſame was Voted and Enacted, never durſt any preſume to offer any Act or Overture for a Toleration to Prelacy; Whereas before that, ſome offered in Parliament Draughts of Acts, for a Tole-

ration to Prelacy, and moved that the Commiſſion of the late *Aſſembly* 1703, ſhould be called to the Bar for Aſſerting in their Addreſs, that the Parliaments granting a Toleration to Prelacy, would be to Eſtabliſh Iniquity by Law.

The Licentiouſneſs of the Preſs, how Reſtrained and Cenſured.

§ 6. The *Aſſembly* 1638, *Decem.* 20. Inhibiteth all Printers within this Church to Print any Act of this or preceeding *Aſſemblies*, any *Confeſſion of Faith*, any Debates about preſent Diviſions, or any Treatiſe whatſoever, which may concern the Church of *Scotland*, without Warrant from the Clerk of the *Aſſembly*, or to Re-print the ſame by any other not Appointed by him: and that under pain of Eccleſiaſtical Cenſure. By the 14 *Chap. Art.* 19. of the *French* Diſcipline, All Printers and Stationers are Warned, not to Print or Sell Books that ſhall concern Religion or Eccleſiaſtical Diſcipline, without the Conſiſtories Allowance, and no Book is to be ſold that tends to Advance Idolatry, and Corrupt good Manners. And by the 16 *Art.* of the foreſaid 14 *Chapter*, Miniſters nor any elſe in the Church, cannot Print Books made by themſelves or others, touching Religion, nor any way publiſh them without Allowance from the Preſbytery or Synod, or from thoſe Authorized by the Synod to Licenſe Books. By the 7 *Act* of *Aſſembly* 1707, Preſbyteries are Appointed to take ſpecial Notice, of any Book or Pamphlet which has for it's Author or Publiſher any Miniſter of this Church, and Examine if there be any thing therein contrair to Her Doctrine, Worſhip, Diſcipline or Government, and that they Cenſure ſuch as ſhall Tranſgreſs herein, according to the Demerit of the Cauſe. The Sellers alſo and Diſperſers of Erroneous and Popiſh Books, are to be Puniſhed Arbitrarily by the Rubrick of the 25 *Act*, *Par.* 11. *Jac.* 6. But the Statutory Words run only againſt the Home-bringers of ſuch Books: The Books alſo are to be Deſtroyed, and Warrandice given to Magiſtrates of Burghs, with a Miniſter

ſter Intromet with them, without Hazard of Spuilzie: *De praxi*, Sheriffs and other Magiſtrates Intromet with ſuch Books without a Miniſters Preſence or Concurrence. *Vide Mackenzie* on Title *Hereſy*.

How Overtures are turned into Acts of General Aſſemblies.

§ 7. For preventing Innovations, ſudden Alterations, by paſſing of Acts which may Threaten the Peace of the Church, It is Enacted, That before any *Aſſembly* make Acts which are to be New ſtanding Rules and Conſtitutions to the Church, the ſame be firſt paſt as Overtures to be Tranſmitted to the ſeveral Preſbyteries, and their Conſent Reported to the next *Aſſembly* who may paſs the ſame into Acts, if the more General Opinion of the Church agree thereto, *See* Aſſembly 1639, *Aug.* 30. *Aſſem.* 1641, *Seſſ.* 14. *Aſſem.* 1695, *Seſſ.* 7. *Aſſem.* 1697, *Seſſ.* 6. and by the *Act* of *Aſſembly* 1700, *Seſſ.* 17. any Overtures of General Concern, propoſed to the Aſſembly, after the firſt Reading, are to ly on the Table to be ſeen by all the Members till the next Day of the Aſſembly's ſitting, and when Tranſmitted, Preſbyteries are to Conſider of them, before the Meeting of the Synod, next after the Aſſembly, and their Opinion is to be ſent to the next Aſſembly in Writ. When Preſbyteries Obſerve this Order, then the Aſſembly gathers the Opinion of the Church from the Plurality of the written Opinions Returned; But in caſe a great Number of Preſbyteries, ſhould either be ſo well Satisfyed, or ſo Indifferent about the Overture Tranſmitted, or give ſuch Abſolute Truſt and Credit to their Commiſſioners that they give no Opinion in the Matter, in that caſe the Opinion of the Commiſſioners is to be looked upon as the Opinion of their Conſtituents.

When Act. of Aſſembly may be Repealed.

§ 8. The ſame Authority and Method that was neceſſary unto the Framing of an Eccleſiaſtick Conſtitution, muſt be Interpoſed and uſed at it's Repealing, *Nam nihil eſt tam naturale, quam eo genere quidque Diſſolvi, quo colligatum eſt.* By the 8 *Act* of *Aſſembly* 1706, Commiſ-

ſion Books are only to be atteſted in a Negative Stile, even as thoſe of Synods; Yet, by the 9 *Act* of *Aſſembly* 1707, The Actings and Proceedings of the preceeding Commiſſion are Ratifyed, and Approven poſitively and Solemnly, as former Commiſſions had been; Becauſe of their Extraordinary Faithfulneſs, Zeal, and Diligence in Addreſſing and Petitioning the Parliament, againſt the Dangers and Evils Feared from the then deſigned Incorporating Union with *England*.

Errors and Separation, how Cenſurable.

§ 9. By the 21 *Act* of *Aſſembly* 1696, And by the 12 and 18 *Acts* of *Aſſembly* 1704, All Miniſters and Members of this Church, are Diſcharged to Publiſh or Vent either by Speaking, Writing or Printing, by Teaching or Preaching, any Doctrine, Tenet or Opinion, contrary unto any Head, Article, Part or Propoſition of the *Confeſſion of Faith* of this Church, and particularly, the Venting any *Arminian* or *Socinian* Errors: And Church Judicatories are Ordained to Advert to any who ſhall Teach or Vent ſuch Errors, and proceed to Cenſure them for the ſame. And alſo all Preſbyteries are Injoyned to Cenſure ſuch Perſons within their Bounds, who do carry on Diviſive Courſes, and withdraw from Communion with this Church, under a Pretext of Zeal to her Doctrine, Worſhip, Diſcipline and Government: and that all Means be uſed for Reclaiming ſuch Miſled People.

Miniſters are to Obſerve the publick Orders of this Church.

§ 10. By the 6 *Act* of *Aſſembly* 1690, It is Recommended to Preſbyteries, to take Notice of all Miniſters, whether the late Conforming Incumbents or others, who ſhall not Obſerve Faſt and Thankſgiving Days, Indicted by the Church, or who ſhall be found Guilty of Adminiſtring the Sacraments in private, or Celebrating Clandeſtine Marriages without Proclamation of Banns, and to Cenſure them accordingly.

§ 11. For

§ 11. For retaining Unity and Soundneſs of Doctrine, All Probationers Licenſed to Preach, all Intrants into the Miniſtry, and all other Miniſters and Elders, all School-Maſters, Chaplains, Governours and Pedagogues of Youth are Appointed to Subſcribe, at the ſight of Preſbyteries, their Approbation of the *Confeſſion of Faith*, as the Confeſſion of their Faith, *Aſſem.* 1690, *Act* 7. *Aſſem.* 1700, 10 and 11 *Acts*. And by the 11 *Act* of *Aſſembly* 1694, any of the late Conform Miniſters may be received by the Commiſſion of the Aſſembly into Miniſterial Communion who ſhall Acknowledge, Engage and Subſcribe, upon the End of the *Confeſſion of Faith*, the following *Formula*. And by the 16 *Act* of *Aſſembly* 1705, All Students of Theologie Licenſed to Preach, and all Miniſters and Elders are in like manner to Subſcribe the ſame; The Tenor whereof follows, ‘‘ I * * Do ſincerely Owne ‘ and Declare, the above *Confeſſion of Faith*, Approven by ‘ former General Aſſemblies, and Ratifyed by Law in the ‘ Year 1690, to be the *Confeſſion of my Faith*, and that I ‘ Owne the Doctrine therein-contained, to be the True ‘ Doctrine, which I will conſtantly Adhere unto: As ‘ likeways, that I Owne and Acknowledge the Preſbyterian Government of this Church now Settled by Law, ‘ by Kirk-Seſſions, Preſbyteries, Provincial Synods, and ‘ General Aſſemblies, to be the only Government of this ‘ Church, and that I will Submitt thereto, Concurr therewith, and never endeavour directly nor indirectly the ‘ Prejudice or Subverſion thereof, and that I ſhall Obſerve ‘ Uniformity of Worſhip, and of the Adminiſtration of all ‘ publick Ordinances as the ſame are at preſent Performed ‘ and Allowed. Vid. *Sect.* 7. *Tit.* 4. *Lib.* 1.

The Confeſſion of Faith to be Subſcribed with a Formula, and by whom.

§ 12. The Synods of this National Church in the Year 1702, Conſidering the great Affair of the Union of the two Kingdoms, then under Deliberation, did for mutual Edification, and ſtrengthening one anothers Hands in the LORD's

Synodical Aſſociations for Securing the Church Government.

LORD's Work, appoint each Miniſter and Probationer, judicially, in their Reſpective Preſbyteries to profeſs and declare their Reſolutions and Ingadgments to Maintain, by GOD's Grace, the True Doctrine of this Church, according to our *Confeſſion of Faith*, and the Purity of Worſhip, Diſcipline and Preſbyterian Government of this Church, founded on the Word of GOD, and that they Promiſe to Diſown all Principles contrary thereto.

How the 4th Article of the 23 Chapter of the Confeſſion of Faith is generally underſtood.

§ 13. The Fourth Article of *Cap.* 23. of the *Confeſſion of Faith*, has theſe Words, *Infidelity, or Difference in Religion, doth not make Void the Magiſtrates Juſt and Legal Authority, nor free the People from their due Obedience to him.* Which are generally underſtood thus, *viz.* That the Principles of our Holy and Peaceable Religion, do not deny but Infidels and Papiſts may be Lawful Magiſtrates in ſuch Countries or Kingdoms where theſe Falſe Religions are Eſtabliſhed. And if any of our Religion happen to Sojourn in theſe Territories, they ought notwithſtanding to owne their Juſt and Legal Authority, and Obey their Lawful Commands. But in other Kingdoms or Countries, ſuch as this of *Scotland* is, where Profeſſing and Defending of the Proteſtant Religion is made a Condition of Government, betwixt the Magiſtrate and People, in that caſe, if he ſhall either be of, or fall away to a Falſe Religion, and Violate the ſaid Condition and Agreement, then there is Ground and Reaſon for the Peoples Repreſentatives, to *Claim* their *Right*, and Declare him on that Account to have Forefaulted his Right to the Crown, and Declare the Throne vacant, as did our Meeting of Eſtates, *April* 11. 1689.

Separatiſts not to be Familiarly Converſed with.

§ 14. The Act of Aſſembly, *Aug.* 31. 1647, Conſidering how the Errors of Independency and Separation have ſpread in *England* ſo much, that Exceeding Great Errors and Blaſphemies have Iſſued therefrom, and are Sheltered thereby: Therefore, all Perſons are Diſcharged from frequent

frequent and familiar Converſe with Perſons Tainted with ſuch Errours, or to Import, Sell, or Diſperſe ſuch Erroneous Books or Papers, and it is Recommended to the Magiſtrate, to be Aſſiſting to Miniſters, in the Execution of this Act. There is a former *Act* of *Aſſembly*, *Auguſt* 9. 1643 to the ſame purpoſe, and by the 10 *Act* of *Aſſem.* 1701, the foreſaid *Act* 1647, is Ratifyed. *Vid.* § 6. *huj. Tit.*

None are to withdraw from their own Pariſh Kirk.

§ 15. By the Act of Aſſembly, *Aug.* 24. 1647, for preſerving Order, Peace, and Unity in the Kirk, preventing of Schiſm, and for Maintaining that Reſpect which is due to the Miniſters of JESUS CHRIST, Every Member of a Congregation is Ordained to keep his own Pariſh Kirk, to Communicate there in Word and Sacraments, and if any Perſon, ſhall uſually Abſent themſelves from their own Congregation, except in urgent caſes, made known to, and approved by the Preſbytery, the Miniſters of thoſe Congregations whereto they Reſort, ſhall both in publick by Preaching, and in private Admonition, ſhew their Diſlike of their Withdrawing from their own Miniſter: Likeas, the Miniſter of that Congregation from which they do Withdraw, ſhall Labour firſt by private Admonition to Reclaim them, and if that fail, they are to be Cited to the Seſſion, and Cenſured as Contemners of the Order of the Kirk, and if the Matter be not taken Order with there, it is to be brought to the Preſbytery.

Diſorderly Miniſters & Preachers to be particularly Noticed.

§ 16. By the 6 *Act* of *Aſſembly* 1708, All Preſbyteries and Synods are ſtrictly and peremptorily Appointed to take particular Notice of Miniſters, Preachers, or others, who fall into Irregularities or Schiſmatical Courſes, that they duely Cenſure them, according to the Merit of their Fault, even to Depoſition of Miniſters and Elders.

Meetings meerly on pretence of Religion to be ſhunned.

§ 17. The Aſſembly, *Aug.* 4. 1641, doth Charge all Miniſters and Members of this Kirk, to Suppreſs all Impiety and Mocking of Religious Exerciſes, and that they eſchew

eſchew all Meetings under the Name and Pretext of Religious Exerciſes, which are apt to breed Error, Scandal, Schiſm, Neglect of Duties in particular Callings, and ſuch other Evils.

The Churches Name is not to be uſed without her Conſent.

§ 18. For preventing of Abuſe to the Kirk in General, and Miniſters in particular, The Aſſembly by their Act, *Aug.* 5. 1642, doth Prohibite and Diſcharge all and every one, to pretend or uſe the Name of Miniſters to any Petition, Declaration, or ſuch like, without their Knowledge, Conſent, and Aſſiſtance; And the Tranſgreſſors hereof are to be proceeded againſt, with the higheſt Cenſures of the Church.

No new Oath in the Cauſe of Religion, to be taken without Advice of the Church.

§ 19. The General Aſſembly Injoyns all the Members of this Kirk to forbear the Swearing, Subſcribing, or Preſſing of any new Oaths or Bonds, in the Cauſe of Reformation without Advice and Concurrence of the Kirk. See *Act* and *Declaration*, *July* 28. 1648.

Some Cuſtoms of the Church were acknowledged to be Indifferent.

§ 20. In the General Aſſemblies Anſwer, *February* 13. 1645, to the Aſſembly of Divines in *England*, they ſeem to acknowledge, that they have ſome Practices in this Church which are in themſelves Indifferent: for they Expreſs themſelves thus: Nevertheleſs in other Particulars we are Reſolved, and do agree to do as ye have deſired us in your Letter, that is, not to be Tenacious of old Cuſtoms, tho' Lawful in themſelves. But to lay them aſide for the nearer Uniformity with the Kirk of *England*, that rather than it fail on our Part, we do moſt willingly part with ſuch Practices and Cuſtoms of our own, and without the Violation of any of CHRIST's Ordinances.

None but Proteſtants capable of any place of Truſt.

§ 21. It is no ſmall Security to the Proteſtant Religion, & tends much to the preventing of Innovations and Errors, that none are capable of Civil Truſt, but true Proteſtants: for they who profeſs not the true Religion, contained in the *Confeſſion of Faith*, Eſtabliſhed by K. *Jac.* 6. his firſt Parliament, may not be a Judge, Procurator, nor Member

of

of any Court, *Cap.* 9. *Par.* 1. *Jac.* 6. And by *Cap.* 5. *Par.* 2. *Jac.* 6. This Act is Extended to all and whatsoever Offices, without any Exception, or Restriction, in all time coming. And such Church-men, as will not Subscribe the above-mentioned *Confession*, are Deprived : And all such as Refuse to Subscribe the same, are to be Repute Rebels and Enemies to the King and his Government, *Cap.* 46. 47. *Par.* 3. *Jac.* 6.

TITLE IV.

Of Witches and Charmers.

§ 1. OUr General Assembly, *July* 29, 1640: Ordains all Ministers carefully to take notice of Charmers, Witches, and all such abusers of the people, and to urge the Acts of Parliament to be Execute against them. By another Act *August* 19, 1643: Ministers must be careful to Instruct the people, press Holiness of Life upon them, and use the Censure of the Kirk against profane persons; Moreover, let the people seek Knowledge, Study to Believe, walk in Holiness, and be instant in Prayer; all which is proposed as Means to prevent the growth of Witchcraft; And further, Presbyteries are Ordained, to take under Consideration by what other Ways or Means these Sins may be Tryed, Restrain'd, and condignly censured and punished, Ecclesiastically and Civilly. In pursuance whereof, the Assembly *August* 6, 1649, for Advising anent the tryal and punishment of Witchcraft, Charming, and Consulting, there is a Commission granted to One and Twenty Ministers, for a Conference in the said Matter, with Nine Lawyers and Three Physicians.

Acts of Assembly for preventing of Witchcraft; Grounds for apprehending of, and how to deal with them.

And in the Aſſembly 1700, among the Unprinted Acts, you'll find a Committee of Miniſters appointed to Attend the Lords of Council and Juſticiary concerning Witchcraft, when called thereto by their Lordſhips. By the Aſſembly *Auguſt* 5, 1642, Presbyteries are Ordained to give up to the Lords of Juſticiary, the Names of Witches, Sorcerers and Charmers, and becauſe ſuch Sins proceed many times from Ignorance, therefore all Miniſters are Ordained (eſpecially in the North where theſe Sins are more frequent) to be diligent in Preaching, Catechiſing, and Conferring, to Inform their people therein. By the forecited Act Aſſembly 1643, they Declare the Occaſions of Witchcraft to be theſe eſpecially, *viz.* Extremity of Grief, Malice, Paſſion, and deſire of Revenge, pinching Poverty, and Sollicitation of other Witches. They ſay the Reaſons of Satans prevailing, are, groſs Ignorance, Infidelity, want of Love to the Truth, and profaneneſs of Life. The means they propoſe, for bringing them to a juſt puniſhment, are, That a Commiſſion be Granted to ſome Gentlemen and Magiſtrates, within the Bounds of ſuch Presbyteries, as ſhall crave it, giving them power to cauſe Apprehend, Try, and Execute Juſtice upon perſons guilty of ſuch Crimes. They Declare the Grounds for Apprehending Witches, to be theſe, *viz.* A reigning Bruit of Witchcraft, backed with Delations of confeſſing Witches, being Confronted with them: for it is found, that the Delations of Two or Three Confeſſing Witches, hath ordinarily proved true: As alſo, Depoſitions of honeſt perſons concerning Malefices committed, or Cures uſed by them, may be a ground for Apprehending them. *Mackenzie* on this Title, ſays, That none ſhould be Apprehended for Witches except it appear by the Event of the Inquiſition, that they ly under many and pregnant preſumptions, ſuch as, That they are Defamed by other Witches, That they have been themſelves of an ill Fame, That they have been found Charming,

Charming, or that the ordinary Instruments of Charming be found in their Houses; And it is to be remembred, that *Ad assumendas Informationes, sufficiunt levia Judicia, sed gravia requiruntur ad hoc ut citetur reus & ut Judex specialiter inquirat.* By the foresaid Act of Assembly, after they are Apprehended, honest and discreet persons should be appointed to Watch them, to prevent their being suborned, and hardned by others, or destroying themselves, and Ministers would be careful at all times, especially Morning and Evening, to deal with them by Prayer and Conference, while they arein prison or restraint.

§ 2. Witchcraft was *Crimen utriusque fori*, by the Canon Law, and with us, the Kirk Session did use to Inquire into it in order to the Scandal, and take the Confession of Parties, or receive Witnesses against them: But since so much weight is laid upon the Depositions there Emitted, they should be very Cautious in their procedure. By the 73, *Act Parl.* 9. Qu. *Mary*, Altho' Inferior Judges may concur to the punishment of this Crime, by Apprehending and Imprisoning the Parties suspect; Yet seing the Relevancy is oftimes so intricate, & the proceedure requires necessarily so much Arbitrarines, and the punishment is so severe, upon these Considerations, the Cognition of that Crime should be solely appropriate to the Justice Court.

Who are Judges competent thereto.

§ 3. Paction to serve the Devil is certainly *per se* Relevant, without any Addition, providing they acknowledge they knew him to be the Devil. This paction is either expres, performed by a formal promise given to him, then present, to serve him; Or by presenting a Supplication to him, or by giving the promise, to a Proxie, Impowered by the Devil for that Effect, which he Indulgeth to some who dare not see himself. There is likewise a *tacite* Paction with the Devil, when a person useth the Words or Signs which Sorcerers use, knowing them to be such, and this is Condemned as Sorcery, and is relevant

What is Relevant to infer the Crime of Witchcraft.

to infer the Crime of Witchcraft. But to uſe theſe Words or Signs, when the Uſer knows them not to be ſuch, if the Ignorance be probable, and the Uſer be content to abſtain, it is no ſuch Crime. Renouncing of Baptiſm is moſt relevant *per ſe* to infer the Crime of Witchcraft. Witches uſe to Confeſs, that in ſo doing they uſe this Solemnity, by putting one of their Hands on the Crown of their Head, and the other beneath the Sole of their Foot, at which time he gives them new Names.

The Devils Mark not per ſe *relevant.*

§ 4. To Libel the Devils Mark is not *per ſe* relevant, unleſs it be Confeſt by them, that they got that Mark by their own Conſent, *quo caſu*, it is equivalent to a Paction. The PRICKERS ſay, If the place Bleed not, or if the perſon be not ſenſible, then He or She hath the *Mark*; which is given by a Nip in any part of the Body, and is Blue, as is alledged: But it is hard to diſtinguiſh any ſuch Marks, *a nævo, clavo, vel impertigine naturali.* Where Threatnings are ſpecifick, bearing a promiſe to do a particular ill, and when Charms are uſed to obtain its Execution, and when its known that the Threatner had a preceeding Enmity againſt the perſon Threatned; under theſe Circumſtances, *Malum minatum & damnum ſecutum* Libelled, would ſeem to be Relevant: Yet it is ſafer to puniſh theſe Threatnings with ſome milder puniſhment than Death, as *Crimen in ſuo genere*, and not as Witchcraft. Indeed if the perſon who uſed the Charms, knew them to be ſuch, as Witches and Sorcerers do make uſe of, for procuring ſuch Miſchief, it is Relevant to infer Witchcraft, as hath been ſaid.

Threatnings to do Miſchief how relevant.

Uſing of Charms tho' for good Ends puniſhable.

The uſing of Magick Arts or Charms, though for good Ends, as for the Curing of Diſeaſes in Men or Cattel, has no place to make a relevant Defence. Since the Law cannot know exactly, what Efficacy there is in natural Cauſes, it may very well Diſcharge all ſuch Acts, wherein there is no neceſſary Connexion, *inter cauſam & effectum*, as it pleaſes, under the pain of Witchcraft: Nor can theſe who are Accuſed,

cuſed, complain of Severity, ſince *ſibi imputent*, that uſe theſe forbidden Things: And therefore, ſince the Law and Practique hath forbidden all Charms, it is moſt juſt, that theſe who uſe the ſame, ſhould be ſeverely puniſhed, whatever the pretext be upon which they are uſed, or after whatever Way and Manner, or to whatever End, whether good or bad. Conſulting with Witches, when done Knowingly, Intentionally and in Earneſt, or a profeſſing of Necromancy, which was a propheſying by departed Spirits, as alſo Predictions and Reſponſes by the Sieve, and the Shear, and by the Book, and all ſuch Cheats and ſpecies of Sorcery. See the 73: *Act Parl:* 9: of Q. *Mary*, when perſons are delated by other Witches, or *per defamationem*, which we call *Common Bruit*, and *Open Fame*, and thereupon Libelled, that Article is never ſuſtained as Relevant *per ſe* to infer Witchcraft; Yet ſometimes Articles that are of themſelves Irrelevant, are ſuſtained Relevant, being joyned with that of *Fame* and *Delation*: But it is hard, and ſeems unjuſt to compoſe a Relevant Libel, out of Articles that are *per ſe* Irrelevant.

Conſulting with Witches puniſhable.

What Defamation by Witches imports.

§ 5. The Relevancy of this Crime being diſcuſſed, the ordinary probation of it is, by Confeſſion or Witneſſes: It ſhould be evident, that the perſon Confeſſing is not weary of Life, or oppreſſed with Melancholy. Albeit *Hic non ſemper requiritur ut conſtet de Corpore delicti*, this being a Crime which conſiſts *in animo*, yet the Confeſſion ought to be ſuch, as contains nothing in it that is impoſſible: It is Condeſcended by Lawyers, that *ſuccubi & incubi ſunt poſſibiles*; That the Devil may ly in the ſhape of a Man with a Woman, or in the ſhape of a Woman with a Man, having firſt formed to himſelf a Body of Condenſed Air; Or that he may Tranſport Witches to their publick Conventions, and upon ſuch Conteſſions ſome have been puniſhed as Witches. The Probation of this Crime by Witneſſes is very difficult, and therefore *Socii Criminis*, or other

When puniſhment follows on Witches Confeſſion, or by probation of Witneſſes.

other confeſſing Witches are adduced : But yet, theſe do not prove Witchcraft ſolely, though dying and penitent: Whereas it may be doubted if the Conſulting of Witches may not be proved by Two of them who were Conſulted: For if this be not a ſufficient Probation, it may ſometimes be impoſſible to prove Conſulting any other way; But if ſuch be ſubſtained, why may not *Socii Criminis* be allowed as *habile* Witneſſes. The perſons injured by Witches, are admitted Witneſſes againſt them, but *cum nota*, Women are received Witneſſes in this Crime: Witches do rarely Weep, becauſe they are ordinarily Hardned.

If Witches may be deſired to take off Diſeaſes.

§ 6. It is thought lawful, by ſome, for all who are Bewitched, to deſire the Bewitchers to take off the Diſeaſe, providing the ſame can be removed by taking away the old Charm, without any new Application to the Devil; which Practice ſeems yet to be forbidden, *Iſai.* 8. 19. *And when they ſhall ſay unto you, ſeek unto them that have familiar Spirits, and unto Wizards that peep and mutter : ſhould not a people ſeek unto their God ? for the living to the dead.* Yet it is not unlawful for any to remove the Charm, or Sign of it, if it be in their power to do it, without any Application to the Devil or his Inſtruments.

How they Torment by Images, and of the puniſhment of Witches.

§ 7. Witches do likewiſe Torment Mankind, by making Images of Clay or Wax, and when they prick them, the Perſons do find extreme Torment, which doth not proceed from any Influence theſe Images have upon the Body Tormented, but the Devil doth by natural means raiſe theſe Torments in the Perſon, at the very ſame time that the Witches do prick, or pounce, or hold to the Fire theſe Images: Witches confeſſing this manner of Torment, may very judicially be found Guilty, ſince *conſtat de Corpore delicti, de modo delinquendi, & inimicitiis præviis.* The puniſhment of this Crime is with us Death, and the Doom ordinarily bears, To be worried at the Stake and Burnt.

§ 8.

§ 8. Fortune-Tellers are thoſe who do profeſs to Reveal and Diſcover Secrets, by Means altogether Inept or Unlawful, and they are puniſhed with us Arbitrarily, not Capitally, and by the Law of *England*, Cited by *Mackenzie* on this Title, ſuch perſons are to be Impriſoned for the ſpace of a whole Year, during which time they are to be Pilloriz'd Quarterly. *Fortune-Tellers, who, and how puniſhed.*

TITLE V.

Of Blaſphemy, Curſing, profane Swearing, and Lottery.

§ 1. BLaſphemy is a Divine Leſe-Majeſty or Treaſon, and is Committed either by denying that of GOD which belongs to Him, or by Attributing to Him that which is abſurd. Theſe who Swear by the Head or Feet of GOD, are guilty of this Crime by the Canon Law, *Videntur enim amplecti* Anthromorphitarum *hæreſin, quæ membra Deo tribuebat.* They are alſo, according to them, puniſhable, who delate not Blaſphemers. *Blaſphemy, what.*

§ 2. By the 21. *Cap. Parl.* 1. *Car.* 2. It is appointed, that whoever, not being *D*iſtracted in his Wits, ſhall Rail upon or Curſe GOD, or any of the Perſons of the Bleſſed Trinity, be Proceſſed before the Chief Juſtice, and being found guilty, puniſhed with *D*eath. From which Act it is clear, that this Crime can only be Tryed before the Juſtices, and that Diſtraction is only a relevant Defence againſt the Puniſhment. So that Paſſion, Ruſticity, or Raillery excuſe not. Yet if the denying of GOD's Attributes, or any of the Perſons of the Holy Trinity, proceed from Ignorance, and the Denyal be not obſtinately perſiſted in, they ſhould be pitied, rather than puniſhed. *Its puniſhment, and Defences againſt it.*

It

It seems to me a good Defence against the Punishment of Blasphemy, when one is compelled to Blaspheme through Torture, as the Saints did through the Torments and Madness of *Sauls* Persecution, *Acts* 26. 11. And *Solomon*, *Eccl.* 7. 7. says, *Surely Oppression maketh a wise Man mad*, That is, it maketh him speak, or Act, like a mad Man.

How Cursing and profane Swearing is punished & censured, and the Defences against its punishment.

§ 3. By the 103 *Cap. Jac.* 6. *Parl.* 7. Magistrates to Burgh and Landward, are ordained to appoint Censors in publick Markets and Fairs, with Power to exact the Pains of Swearing, and that Housholders delate Offenders within their Houses, under the pain of being esteemed as Offenders themselves. By *Cap.* 16. *Parl.* 5. Q. *Mary*, particular Pains are ordained against profane Swearers, with gradual Augmentations, and ending in Banishment: Which Acts are Ratifyed by *Charles* 2. *Parl.* 1. *Sess.* 1. *Cap.* 19. And farder it is Enacted, That who shall Swear or Curse shall pay, the Nobleman 20 *Pounds*, the Baron 20 *Merks*, the Gentleman, Heretor, or Burgess 10 *Merks*, the Yeoman 40 *Shilling*, the Servant 20 *Shilling*, *Toties Quoties*; and the Minister the fifth part of his Stipend to be applied to Pious Uses, the one half in the Parish where the Offence was committed, and the other half to be betwixt the Informer and Prosecuter, and other Uses, at the sight of the Judges, as in the Act about Justices of the Peace, and the Insolvent to be punished in their persons. By the *French* Church Discipline, *Cap.* 14. *Art.* 24. profane Swearers, who through Custom or Anger, take the Name of God in vain, after one or two Admonitions, if they desist not, shall be suspended the Lord's Table: So that Custom and Passion do not defend against Punishment. But whether Passion will Excuse, at least in part, from being punished as a Swearer and Curser, when provoked thereto while Imployed about lawful honest Business, I think needs be no difficult Question; Yet no Lawyer will say, that Anger doth lessen this Vice, committed by him who is unlawfully Imployed, as

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in playing at Cards, or in exceſſive and unſeaſonable Drinking: See *Mack.* Crim. *pag.* 26.

Lottery ſometimes Lawful, and ſometimes not.

§ 4. There is a *Lottery* which is Neceſſary, and Uſeful in ſome Caſes, for ending of Debates and Controverſies among Men; As for Example, where there is one Adjudication in favours of divers Creditors, they muſt have their Preference by Lot, in choice of the Rooms of Lands adjudged, *vide Stairs Inſtit. pag.* 75, 626. and 648. So the Land of *Canaan* was divided among the *Iſraelites* by Lot. But there is a Luſory Lottery, ſuch as playing at Cards, *&c.* which is condemned by the Practice of moſt who have the Commendation of good Chriſtians in this Church, and by the Aſſembly 1638. *Seſſ.* 23, 24. *Art.* 9. Carding and Diceing are noted as unlawful Games; And by the 50 Canon, *Concil. ſexti in* Trullo, *Nullum omnium, ſive Clericum, ſive Laicum ab hoc deinceps tempore alea ludere permittimus, ſiquis autem hoc deinceps facere ab hoc tempore aggreſſusfuerit, ſi ſit quidem Clericus deponatur, ſi Laicus, ſegregetur.* To diſcourage this kind of Lottery, it is Enacted by *James* 6. *Parl.* 23. *Cap.* 14. That none play at Cards or Dice in any common Houſe, Town, Hoſtelry, or Cooks Houſe, under the pain of fourty Pounds, the Keeper of the ſaid Houſe for the firſt, and loſs of Liberty for the ſecond Fault; And that there be no playing in any private Houſe, except where the Maſter playes, and if more be won in twenty four Hours than one hundred Merks, it ſhall be conſigned in the Kirk Treaſurers Hands in *Edinburgh*, or in the Collector for the Poor his Hands in the Country. And Magiſtrates of Burghs and Sheriffs and Juſtices of Peace in the Country, are Impowered to purſue for the Superplus Winning, or otherways are declared lyable to the Informers for the Double, whereof the half to himſelf, the other to the Poor.

TITLE VI.

Of the Profanation of the Sabbath; Of not Obſerving Faſt and Thankſgiving Days; Of Withdrawers from, and Diſturbers of the Publick Worſhip, and Obſervers of Superſtitious Days.

How Profanation of the Sabbath is cenſured and puniſhed.

§ 1. THE Aſſembly diſchargeth the Breach of the Sabbath by Labouring either in Seed-time or Harveſt, or by going of Mills, Salt-pans, Fiſhing Salmond, or White Fiſh, under pain of Incurring the Cenſures of the Kirk: And for preventing its Profanation, they appoint both Dyets, Fore-noon and After-noon, to be kept even in Landward for publick Divine Service, *December* 17*th* 1638. and *Seſſ.* 21*ſt* 1639. The Aſſembly likeways Declares, That theſe Acts made againſt Breach of the Sabbath, ſhall not only reach the Servants, who actually Work, but alſo the ſame ſhall be Extended againſt their Maſters and Hirers, *Auguſt* 14*th* 1643. By Act of Aſſembly *June* 18*th* 1646. all ſuch Skippers and Sailers, who begin any Voyage, or looſe any Ships, Barks, or Boats, out of Road or Harbour on the Lord's Day, are to be cenſured. By *Seſſ.* 38. 1648. Elders are to take notice, how ſuch as are within their Bounds keep the Kirk, and how the time is ſpent before and after publick Worſhip. By the 25*th* Act Aſſembly 1690. all unneceſſary Sailing and Travelling is prohibited on the Lord's Day. *Item*, By Act Aſſembly 1705. *Seſſ.* 12. Miniſters are to contribute their Endeavours for ſuppreſſing groſs profaning of the Lord's Day, eſpecially idle vaiguing on the Streets of *Edinburgh*, Peer, and Shoar of *Leith*, Queen's Park, *&c.* and that by an Impartial

vocatio deliteſcat. Sit ille dies a Cognitionibus alienus, præconis horrida vox ſileſcat, reſpirent a Controverſiis Litigantes. Et poſtea, *nec hujus tamen religioſi diei otia Relaxantes, obſcænis quenquam patimur Voluptatibus detineri, nihil eodem die ſibi vendicet ſcæna Theatralis, aut Circenſe certamen, aut Ferarum lacrymoſa ſpectacula; Et ſi in noſtrum Natalem celebranda ſolemnitas inciderit differatur.*

Non-obſervers of Faſt and Thankſgiving Days puniſhable.

§ 3. The Non-obſervers of Faſt and Thankſgiving Days, may be puniſhed as Profaners of the SABBATH, I mean, at leaſt, with the like Puniſhment; For by the Acts of Parliament One Thouſand Six Hundred and Ninety Three, and One Thouſand Six Hundred and Ninety Five, appointing Faſts, the Not-obſervers are puniſhed more ſeverely; And I know nothing to hinder the Church from Cenſuring ſuch, as they do Profaners of the SABBATH.

Diſturbers of Publick Worſhip; How puniſhed.

§ 4. By *Cap.* 27. *Parl.* 11. *Jac.* 6. It is Enacted, That Troublers of the Kirk, or who raiſe any Fray therein, or in the Kirk-yard, in time of Divine Service, be puniſhed by Tinſel of all their Moveables. If the Magiſtrate be preſent, no doubt, he may ordain the Diſturbers to be Removed, and Secured, till they find Baill to Anſwer therefore.

Obſervers of ſuperſtitious Days Cenſurable.

§ 5. By the Act of Aſſembly the thirteenth of *February* One Thouſand Six Hundred and Fourty Five, It is unanimouſly Ordained, That the Obſerver of YULE-Day, or other Superſtitious Days, ſhall be proceeded againſt by Kirk Cenſures, and ſhall make their publick Repentance therefore in the Face of the offended Congregation. And if Maſters of Schools or Colleges grant Vacancie on that Day, they are to be Cited to Anſwer to the next Aſſembly by the Miniſters of the Place; And no Vacance is to be granted at that or any time thereafter in Compenſation thereof. And Scholars guilty herein, are to be Correct-

ed by their Maſters; But if they refuſe to ſubject themſelves to Correction, or be Fugitives from Diſcipline, they are not to be received into any other School or College within the Kingdom. By the 22*d Cap. Seſſ.* 2*d Parl.* K. *William* and Q. *Mary*. The keeping of YULE Vacance, and all Obſervation thereof, is Diſcharged.

The Church of Scotland *hath no Anniverſary Faſt or Feaſt Days.*

§ 6. This Church hath no Anniverſary Feaſt or Feſtival Days, but doth only ſet apart a Day or Days for Thankſgiving or Humiliation, as emergent Providences do call for. By the 1*ſt Act Parl.* 15*th. Jac.* 6*th.* The 5*th* Day of *Auguſt* is appointed to be a Day of Thankſgiving to GOD, for King *James* his Preſervation from the Treaſonable Attempt of the Earl of *Gowrie* and his Brother: But the Truth of this Matter being much queſtioned by many, it never received Univerſal Obedience, and at length turned wholly into Deſuetude. By *Parl.* 1. *Seſſ.* 1. *Cap.* 17. and *Parl.* 2. *Seſſ.* 3. *Cap.* 12. of *Car.* 2. The 29*th* Day of *May* is appointed for the ſolemn Commemoration of his Birth and Reſtoration: And for that end, that it be ſet apart as a Holy Day unto the LORD. But one of the Reaſons why the Presbyterians did not keep this Day is, becauſe in the Act of Parliament appointing it, there is a long Preface full of black Aſperſions upon the whole Church and Nation, and ſuch Reflections upon Religion and the Work of GOD, as cannot be read without Horror. And they were followed with Acts that deſtroyed the Church Government, contrary to National ſolemn Engagements, and gave a deep Wound to true Religion: So that however the King's Reſtoration might otherways have been Matter of Joy, yet in this Reſpect it could not be ſo to any in this Land, that had a true Regard for the Intereſt of Religion. Our Prelatiſts did uſe to obſerve the 30*th* Day of *January*, as an Humiliation Day, becauſe upon it King *Charles* the *Firſt* was Beheaded in *England*, by the Authority and Power of the Uſurpers and Sectaries there; But tho' that horrid Fact was

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ſtill deteſted and abhorred, both by this Church and Kingdom, yet we never would obſerve it, becauſe of our notour Innocence in that Matter. It is true, it is our Duty to Mourn for the Sins of others, but not as our own Sins, except we have had ſome ſinful active Acceſſion thereto.

§ 7. It is not to be reputed an obſerving of Superſtitious Days, when People in Obedience to Civil Authority, do refrain from Work thereupon, according to the 21 *Act*, *Cap.* 14. of the *French* Church Diſcipline. *What is not a ſuperſtitious obſerving of Days.*

TITLE VII.

Of Slandering and Aſſaulting of Miniſters, Beating and Curſing of Parents, and Injuries Perſonal and Real.

§ 1. RAiſing of Scandals and Prejudices againſt Miniſters, being ſo obſtructive to the Succeſs of the Goſpel, the Aſſembly by their Act *Auguſt* 6. 1642, Doth Ordain Presbyteries and Synods to proceed diligently againſt all Perſons that ſhall Reproach Miniſters, with the Cenſure of the Kirk, even to the higheſt, according to the Degree and Quality of the Scandal. *Slandering of Miniſters to be Cenſured.*

§ 2. By the 27 *Act Parl.* 11. *Jac.* 6. and *Act* 7. *Parl.* 1. *Car.* 1. and *Act* 5. *Seſſ.* 1. *Parl.* 2. *Car.* 2. It is appointed, That who Invades or puts violent Hands, or offers Violence to Miniſters, by themſelves, their Men, Tennents, or Servants, or any others of their Hounding out or Allowance, for whatever Cauſe, ſhall be puniſhed by Tinſel of Moveables, the one half to the King, the other half to the Party offended for the Violence allannerly: But prejudice of greater Puniſhment, if any higher Crime concur, ſuch as Mutilation or Slaughter: And that Landlords, Heretors, and Chiefs of Clans, where the Invaders Dwell or Haunt, be holden upon Complaint of the Party, *Violence offered to Miniſters; How puniſhed.*

to Exhibit them: And if after legal Intimation, made to the ſaid Land-lords, *&c.* The ſaid Delinquents be found within their Bounds Haunting openly for Ten Days; that they be holden as Connivers, and be obliged to Exhibit them under the like Puniſhment. But by the 37 *Act* of *Parl.* 1685, It is Ordained, That whoſoever ſhall be found guilty of Aſſaulting the Lives of Miniſters, or of Invading or Robbing their Houſes, or actually attempting the ſame, ſhall be puniſhed with Death.

Beating and Curſing of Parents; How puniſhable.

§ 3. By the 20 *Act Seſſ.* 1. *Parl.* 1. *Car.* 2. Beating or Curſing of Parents, is declared to be puniſhable by the Law of GOD with Death, and therefore Ordains, That whatſoever Son or Daughter above the Age of Sixteen Years, and not Diſtracted, ſhall Beat or Curſe his Father or Mother, he ſhall Die without Mercy: But if they be within the Age of Sixteen, and paſt Pupillarity, they are to be puniſhed Arbitrarily.

Verbal Injuries; What.

§ 4. Verbal Injuries are committed by unwarrantable Expreſſions, as to call a Man a Cheat. *Calvin* in his *Lexicon Juridicum*, ſays, That *Diffamare eſt per diverſas partes famam divulgare, facta vitiorum commemoratione.* In Libelling of ſuch Injuries, there is requiſite, *Firſt*, That the particular Expreſſions be diſtinctly condeſcended on, that the Injury may be accordingly Eſtimate. *Next*, That the *Calumniandi*, or *Injuriandi animus*, the deſign of Injuring, as well as the Injuring Words, muſt be Libelled and Proven, except the Words infer ſo clearly the Injury, that there is no neceſſity to Libel the Deſign. In the laſt Place, That the Purſuer did preſently Reſent the Injury, and thereupon did ſignifie, either expreſly, or by ſome other Acts, his Diſſatisfaction therewith: For, if he was of ſuch a Temper as not to ſignifie any Reſentment thereof at firſt, the Law will not allow him to Repent of that good Humour. *Bockelman*, in his *Compend of the Inſtitutions* of the Civil Law, ſays, That *Injuria eſt delictum, quo quid ad contumeliam*

tumeliam vel dolorem alterius admittitur. And by the Canon Law it is, *Dictum vel factum alterius famam vel dignitatem minuens.* Sometimes Injuries are inferred, not only from expreſs Words, but even from the preſumptive Meaning of the Speakers, as to look in a Man's Face and ſay, *I am not ſuch a Lyer as others are*; Or, to ſay ſlantingly to a Clergy-Man, *You are a fine Church-Man indeed.*

What defends againſt the puniſhment due to Injurers.

§ 5. Since Injuries are Eſtimate, according to the Deſign of the Offender, it follows that Men who are Fools, Idiots, very Young, or very Drunk, are not puniſhable for Verbal Injuries, except the Offender did become Drunk upon Deſign to Offend: And great Paſſion, which breaks off all Deſigning, *Juſta & non affectata ira*, excuſeth alſo in this Caſe. The relating alſo what we have heard from good Authors, who deſign no Prejudice, is ſufficient alſo to defend againſt the Puniſhment due to Injurers.

Real Injuries: What.

§ 6. Real Injuries, according to that forecited Civilian, are, *Cum quis pugno pulſatur, fuſtibus cæditur, verberatur, cumque bona ejus qui nihil debet ut debitoris poſſidentur, cum quis vexandi cauſa, in jus vocatur, aliudve quid ad invidiam alterius fit vel geritur*, M'KENZIE on this Title tells us, Real Injuries are committed by hindering a Man to uſe what is his own, by removing his Seat out of its Place in the Church, by giving a Man Medicaments which may affront him, by arreſting his Goods unjuſtly, by wearing, in contempt, what belongs to another Man as a Mark of Honour, by Razing ſhamefully a Man's Hair, or Beard, or by offering to ſtrike him in Publick.

Infamous Libells called by Civilians Libelli Famoſi, *How puniſh'd, and its Defences.*

§ 7. *Libelli Famoſi*, That is, Infamous Libels are the moſt Permanent of all Injuries: For the Offender in them ſhews more Deſign, and therefore are more ſeverely puniſhed, which with us is Arbitrary, except where the Prince is maliciouſly and deſignedly abuſed. He who Writes, Dictates,

tates, or Affixes Infamous Libels, or cauſes Write, Dictate, or Affix them is puniſhable. If the Offender was a Minor, or was provoked; or if he did tear it before it was fully Written, or after it was Affixed, confeſſed his Fault, and ſaid he only did it out of Paſſion; Or, if what was ſaid was true, theſe things will leſſen the Puniſhment.

Who are Judges competent.

§ 8. According to our Law, *Verbal Injuries* are puniſhed by the *Commiſſars*, except they were committed againſt a Magiſtrate: In which Caſe, the Council or Criminal Court uſes to Amerciate them, eſpecially when he is ſpoken againſt in the Exerciſe of his Office. But *Real Injuries* may be purſued before the Council or Criminal Court. By the Civil Law *Verbal Injuries* are extinguiſhed, if they be not purſued within a Year, or by poſteriour expreſs Friendſhip.

How Church Judicatories are to behave in Proceſſes for Calumny.

§ 9. When the Complaint conſiſts of ſome Injurie done to the Complainer, it is fit that the Church ſhould endeavour to compoſe and remove ſuch Differences privately; but if the bringing of it before them cannot be got avoided, let it rather be Tabled by Order of the Elderſhip, than purſued at the Inſtance of the Complainer, becauſe thus the thing as Scandalous may be more Abſtractly Conſidered, the Perſon more eaſily Convinced, and the Heat of Parties prevented. But if Parties will enter their own Complaint, let them be acquainted, that they are not to expect that the Church can *Civilly* puniſh the Injury, but they are to be Exhorted to pardon it as to any Vindictive Humour, and told, that it is only their Buſineſs to remove the Scandal, and gain and pleaſe Parties, to their Edification. And I ſuppoſe the Calumniator complained of ſhould prove what he alledged againſt the Purſuer, yet even that cannot vindicate him altogether, except the End of his divulging it appeareth really to be his Brother's Edification: See *Durh.* on Scandal, Part Cap. Upon the whole, where there is

is no probable Ground to expect Edification in giving way to such Processes, according to that Author, it were expedient for the Church altogether to wave them.

TITLE VIII.

Of Bribery, Partiality, and Negligence of Judges.

§ 1. IT is to no purpose to make good Canons and Constitutions, if the Execution of them be not committed to just and diligent Persons; As it is to no purpose to have an exact Ballance, if that Ballance be not put in a good Hand. Bribing is the taking of Money or other good Deeds, either for doing of Justice, or committing of Injustice. And if they be taken upon that Account, whether by the Judges, their Wives, Children, or Servants; The Judge is thereby guilty as if done by himself: Providing the same be done by his Command or Ratihabition. *Bribing Who.*

§ 2. Judges are Partial, when they are moved to Act, or Forbear, either from fear of angring and disobliging Parties; Or from a design and love to gain their Favour. By Act of Assembly 10*th August* 1648, Impartial Church Procedure is proposed as a general Remedy against the growing of Sins in the Land. And the Assembly 11*th June* 1697, appoints Ministers and Members of Kirk-Sessions Impartially to exercise Church Discipline; And excites them thereunto, by putting them in mind, that in these Matters, they have to do with the Great and Terrible GOD, whose Honour and Favour is to be preferr'd, and whose Wrath and Anger is to be feared before all other Considerations whatsoever. By the 104 *Act*, 7 *Parl.* Ja. 5. *Partial Judges, Who.*

Conſulting, or giving partial Judgment, or taking of Bribes, is declared Infamous in any Judge. By the 93 *Act*, 6 *Parl.* Ja. 6. the taking of Bribes is diſcharged to the Lords of Seſſion, their Wives and Servants, under the pain of Infamy and Deprivation.

Negligence of Eccleſiaſtical Judges, Cenſurable.

§ 3. By the Laws of this and other well govern'd Nations, Judges negligent in putting Laws to Execution, are puniſhable for their Remiſſneſs and Negligence. And by Act of Aſſembly *January* 30. 1699. It is Enacted, That whatever Miniſter or Member of Seſſion, be found Faulty in neglecting to purſue the Scandals therein mentioned, in their Stations, the ſaid Miniſter or Member of Seſſion be complained of, and cenſured by the Presbytery for the firſt Fault, and that the Cenſure be Recorded, and that the ſecond Negligence be delated to, and cenſured by the Synod; And for the third Neglect, they be cenſured by the Synod with Suſpenſion from their Office, which is to be Recorded in the Synod Regiſter, *vide Tit.* 5. *Lib.* 4.

TITLE IX.

Of Deforcement of Officers.

Deforcement, What.

§ 1. HOW Citations are ſometimes appointed to be Execute, for preventing of Deforcement, *vide Lib.* 1. *Tit.* 2. §. 6. Deforcement is that Force or Violence which oppoſeth Church Officers while they are in the Execution of the Orders & Appointments of Church Judicatories. But if any Officer want his Orders in writ along with him, the Violence offered to him in that Caſe cannot be eſpouſed by Church-Courts, as an Indignity offered to them, otherways Strangers might be Emboldened to affront

affront others by aſſuming and pretending their Authority. Therefore, when any Injurie is offered or committed againſt ſo unexact and negligent Church Officer, it is only to be Reſented as if it had been done him when going about his own Affairs.

§ 2. Whoever may be admitted Witneſſes for proving of other Offences may be ſuſtained as Witneſſes to prove the Deforcement, otherways it may never be proven; But then the Witneſſes muſt not be Purſuers or Complainers, even though they were abuſed; And if they do depone of any Wrong done to themſelves, they may be Rejected as prejudicate Witneſſes. *Who are habile Witneſſes of Deforcement.*

TITLE X.

Of Murder, Parricide, Duels, and Self-Murder.

§ 1. AMong the Eccleſiaſtical Remedies Enacted againſt Profaneneſs, *Auguſt* 10*th* 1648, *Art.* 5. It is propoſed to the Conſideration of Preſbyteries how Murder ſhould be cenſured, in caſe the Magiſtrate do not his Duty in puniſhing it Capitally. And in that *Form of Proceſs*, Enacted by Aſſembly 1707, *Cap* 6. *Art.* 1. Murder, among divers horrible Crimes, is there Enumerated as the Object of the Churches Cognizance; It is not Improper that Church-men underſtand ſomewhat of the Laws and Cuſtoms relating to Criminal Matters, the Relevancy and Puniſhment of many Crimes being either founded upon or expreſſed in the Word of God, whereof they are the Authorized Miniſterial Interpreters. It is true, it may be feared, that Church Diſcipline ſhall have but ſmall Succeſs upon obdured or monſtruous Criminals; Yet, it being *That theſe Crimes come under Church Cognizance.*

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being a Mean appointed by Jesus Christ for Reclaiming of Sinners, it should on that account be Tryed, and no more Neglected than His Word and Sacraments, which very often have no better Effects. This Church hath very clearly Expressed her Opinion about the Extent of the Object of Church *Discipline*, *Assem.* 1638. *Sess.* 23, 24. *Art.* 13. Where they ordain, That Discipline in Kirk-Sessions (for there all Processes against Church Members do first begin) strike, not only upon gross Sins, as Blood-shed, *&c.* but against all Sins repugnant to the Word of GOD.

Murder, what, and of Casual Homicide.

§ 2. Civilians define Murder to be the Killing Man by Man, unlawfully; And they divide it into that which is committed Casually, in *D*efence, Culpably, or Wilfully: Casual Homicide is, when a Man is killed without either the fault or design of the Killer, as if an Ax-head should fall off and kill a By-stander, or, a Rider should kill with his Horses hinder Feet. Casual Slaughter or Homicide then, is that, which is occasioned by Mistake and just Ignorance: for if it proceed from affected Ignorance, as for instance, if a Man will not know what he may know, his Ignorance in that case will not make the Murder following upon it to be constructed casual Homicide; But if it proceed from gross and *supina Ignorantia*, it may be punished by an Extraordinary or Arbitrary punishment, but not by *D*eath. It is then necessary, that the Committer used all exact diligence to evite the Crime, else, he is not in the case of casual Homicide. Further instances whereof are, if a Mason before he throw down Stones, advertise all below, tho' in the Throwing he Kill, he is to be cleared from Murder. Or if a Hunter shoot at a Beast, but a Man come in the way and be killed: and yet if either the Mason Cry not, or if the Hunter did shoot in a place where people use to be, he is judged by some Lawyers to be guilty of Faulty Murder. If the Committer do what is against the Law of Nature, or what is Criminal: Or if

what

what he doth may produce ill Conſequences and Murder, tho' he deſigned not the ſame: In all which Caſes, he ought to be lyable. And it ſeems reaſonable, that he who Killed, when he was doing what was unlawful, may be Arbitrarily puniſhed, tho' he did exact diligence to ſhun Killing.

Homicide committed in Self-defence, and how lawful Bounds are Exceeded.

§ 3. *Homicidium neceſſarium*, or Homicide committed in Self-defence, is, when a Man being purſued, or reduced to inevitable Neceſſity, has no way left him to evite his own Death, but by killing the Aggreſſor: This is in Law called *Inculpata Tutela*, or, *Moderamen inculpatæ tutelæ*; within which Moderation, if the Defender contain himſelf, he is noway puniſhable; And ſo favourable is Self-defence, that the Exceeder is not lyable to the ordinary puniſhment, but is puniſhable according to the Exceſs, at the diſcretion of the Judge. This Moderation is ſaid to be Exceeded in theſe Three, *Firſt*, In *Arms*, as if the Aggreſſor have only a Staff, and the Defender Wound him with a Sword or Piſtol, the Defender is in that caſe puniſhable. And yet this Concluſion is not infallible, for if the Defender was much weaker than the Aggreſſor, he might be excuſed to uſe ſuch unequal Weapons, according to *Mackenzie* on this *Title*. *Secondly*, The Defender is ſaid to Exceed in *Time*, if he ſtrike the Aggreſſor, *antequam ſit in actu proximo occidendi*, for elſe it ſhould be lawful to every Man, upon the firſt apprehenſion of Fear to kill the Aggreſſor. If he Threaten to Kill, and be one who is known to have any deſign to Murder, or be a perſon who uſeth to Execute what he Threatens, and if he have a Sword, tho' not drawn, or a Piſtol, tho' not cock'd, if he hath either of theſe, according to the forecited Author, he may be lawfully Killed, becauſe he is *in actu proximo offendendi*, and yet he thinks the Defender may be Arbitrarily puniſhed. *Thirdly*, The Defender is ſaid to Exceed in the *Meaſure*, as if he Killed him for Wounding, whom he might have

have ſhunn'd, or if he followed the Aggreſſor. Albeit much be left to the Arbitration of the Judge, as to all the Three; Yet the general Rule is, That if the Defender Exceed only in either of the Three, as *v. g.* in the *Arms* or *Time*, the Exceſs is ſaid to be *culpa leviſſima*: if in Two of theſe, as in *Time* and *Arms*, then it is accounted *culpa levis*, and is puniſhable: But if the Defender Exceed all the Three, as in *Time*, *Arms* and *Way* of proſecution, then it is *culpa lata*, but yet he is not puniſhable as if he had *doloſe* murdered, for tho' it be a Rule *in Civilibus*, that *culpa lata æquiparatur dolo*, yet it is a Rule *in Criminalibus*, that *culpa lata nunquam æquiparatur dolo, ubi agitur de pœna corporis afflictiva.* This Exception of Self-defence muſt be proponed againſt the Relevancy, and muſt be condeſcended upon, thus, the Defender, or Pannel nowiſe acknowledging the Killing, yet if he Kill'd, it was done in his own Defence, in ſo far as the Defunct drew a Sword, and Thruſt, or offered a Piſtol. And though he prove not his Exception of Self-defence, he will not therefore be Condemned, except the Purſuer prove the Libel. The way of proving this Exception of Self-defence is ſo favourable, that it may be proved by Preſumptions, and by Witneſſes, otherways Declinable, as Couſins, Servants, and Witneſſes who depone only upon Credulity.

How Self-defence is to proponed and proven.

What is Homicidium Culpoſum, *or Faulty Homicide.*

§ 4. *Homicidium Culpoſum*, or Faulty Slaughter, is, where the Murder was not deſigned, and yet it was committed meerly by Accident, as if one ſhould Hound a Dog at another, who ſhould Bite him at whom he was Hounded, ſo that he ſhould Die thereby, in that and the like caſe, the Offender is not to be puniſhed with Death, but Arbitrarily, becauſe *aberat animus occidendi.* The difference betwixt this and Caſual Homicide, is in this, The Committer *verſatur in illicito*, but not ſo in the other, yet they both agree in this, That they wanted all deſign of Killing.

§ 5

§ 5. Wilful Murder is committed by fore-thought Felony, and if he who intended to Kill one, did not by a miſtake Kill him, but Killed another, yet he is to Die, becauſe he Killed a Man deſignedly. Since the deſign of Killing depends much upon the Nature of the Wound given, then where the Wound was not deadly, the Inflictor thereof cannot be puniſhed as a Murderer, tho' the Perſon Wounded, thereafter *Die*: And tho' ſome be of Opinion, That if the Party live three Days after receiving of the Wound, the ſame is thereby preſumed not to be Mortal: Yet generally this is referred to the Arbitriment of the Judge, who is in this to follow the Opinion of Phyſicians, or of one Phyſician, if more were not preſent: But if they Vary, then the Judge ſhall not incline to puniſh by Death, but by an Extraordinary puniſhment. For Murder is not to be inferred but from a concluding probation: and if the Wound be but ſmall, and a Feaver follow, then it is preſumed that the Partie Died rather of a Feaver, eſpecially if the perſon Wounded walked a Foot for fourty Days: And ſeing ordinarly, Wounds that are Mortal do kill the Receiver in that Time, it were therefore not hard to conclude, that he who dies thereafter, dies not of his Wounds if he has walked a Foot all that Time.

Wilful Murder what and what Wound is to be judged mortal.

§ 6. Night Thieves, Robbers, and Murderers, may be Killed without any puniſhment, when private perſons are warranted to purſue them by Sheriffs, Juſtices of the Peace, or Privy Counſellors, and the Robber or Murderer Reſiſts to be Apprehended. And by the Civil Law, it was lawful for a Father to Kill his own Daughter, if he found her committing Adultery, and to Kill alſo her Adulterer: And if the Husband Kill the Adulterer of his Wife, he was only to be puniſhed by ſome Arbitrary puniſhment, but not by Death. See the *Title* of the *Pandects de Adulter.* But there is no ſuch Deciſion yet happened in this Countrey: In the *Memoirs* of the Marquiſs of *Langallerie* Prin-

Killing of Robbers, Murderers and Adulterers, how warrantable.

ted at *London* this year 1708, *Page* 85, the following Paſſage is related, *viz.* A Citizen of *Madrid*, finding a *Frenchman* and his Wife on the Bed, Stobbed them both. After the Execution, he goes out with his *D*agger in his hand, ſtain'd with the Blood of theſe two perſons, and preſents himſelf before the Judges, who were then upon the Bench. The Court of Juſtice, without any other Formality upon the recital of the Action, declared him Innocent; This he ſays happned in the year 1700, and the *Frenchman* was a Gentleman of the Retinue of the *French* Ambaſſador.

Fighters of Duels, how puniſhed and Cenſured.

§ 7. *Monomachus*, or, the Fighter of a ſingle Combat, is, *ſingulus qui pugnat cum ſingulo.* By the 12. Act of the 16. *Par. Jac.* 6. All ſuch Fighters are puniſhable with Death, albeit none of them be Killed, and the Provoker is to be puniſhed with a more Ignominious *D*eath than the Defender. The giving or accepting Challenges to Fight, and thoſe who carry them, and the Seconds of ſuch, may be puniſhed by the Council *Arbitrarié*, although Combat follow not, becauſe they tend to diſturb the Peace. The *Gen. Aſſemb.* by their Act 1648, diſcharges Duels, and ordains all who ſhall Fight them, or Make, Write, or Receive, or with their Knowledge carry Challenges, or go to the Fields, either as Principals or Seconds to Fight, the Contraveeners are to be brought into publick twice, once in order to their being Rebuked, and again, in order to the profeſſing their Repentance. (but the Method of Cenſuring ſuch now, is to be Regulate according to the *Form of Proceſs* Enacted by Aſſembly 1707, of which more hereafter *Lib.* 4.) If the perſon guilty be Elder or Deacon, he is to be Depoſed, and whoſoever ſhall refuſe to ſubmit to the Cenſure appointed by the Church, ſhall be Proceſſed to Excommunication. And by *Cap.* 14. *Art.* 22. of the *French* Church Diſcipline, the ſame upon the matter is Enacted.

§ 8.

§ 8. Self murder is punished with Confiscation of Moveables, and Christian Burial is denyed them. Furiosity and Madness ought to defend against this punishment, even tho' he hath Lucid Intervals, seing its more Humane to presume he killed himself in his Madness, except it can be proved, that he used even in his Lucid Intervals to wish he were dead, or to commend Self-murder. An endeavour to kill ones self, is punishable by Confiscation, as Self-murder. But it may be reasonably feared, that the inflicting that Punishment upon it, will tempt the poor Creature to renew its Endeavour with better Success. Self-murder may likeways be committed by Omission, as if a Man should designedly Starve himself. *Self-Murder how punished, and what defends against its punishment.*

§ 9. Parricide is a Crime which is committed by Killing our Parents, or, by the Civil Law, Ascendents or Descendents in any Degree. By the 220 *Act Parl.* 14. *Jac.* 6. Paricide is punished only in him who Kills his Father, or Mother, Good-sire, or Good-dame, and they are ordained to be Disinherited *in linea recta.* *Parricide what, and how punished.*

§ 10. By the 21 Act of K. *W.* & *M. Par.* For preventing the Murder of Children, It is Enacted, That if any Woman shall conceal her being with Child, during the whole space, and shall not call for and make use of Assistance in the Birth, the Child being found Dead or a Missing, the Mother shall be holden and repute the Murderer of her own Child, tho' there be no appearance of Bruise or Wound upon the Body of the Child. *Murder of Children, how proven.*

§ 11. The taking of Potions to cause Abortion, after the Child was Quick, should be Capitally punished, tho' the using such means before the *fœtus fuit animatus*, or to hinder Conception, is to be punished Arbitrarily. By the 91 *Canon Concilii sexti in* Trullo, it is thus determined, *Eas quæ dant Abortionem facientia Medicamenta, & quæ fœtus necantia venena accipiunt, Homicidæ pœnis subjicimus.* *Abortive Potions, how punishable.*

The Exposers of Infants, how punished, and if they be Bastards.

§ 12. If the Exposed Infants do thereby die, the Exposers are as guilty as the Takers of Abortive Potions, especially if the place was solitary and remote from Society, and where Beasts might devour them: But if they were Exposed where people resort, and might easily be seen, these who laid them down are only to be punished Arbitrarily. Since in this Land most rarely are Children lawfully begotten ever Exposed, therefore we are not obliged to repute them otherways than unlawfully begotten, see *Matthæus de Crim. Expos. Infant.* The Parish where such Children are found, is certainly at first, to bear the burden of their Maintenance and Education.

TITLE XI.

Of Incest, Adultery, Bigamy, Rapes, Fornication, Et de Venere Monstrosa.

Incest what, its kinds, and how punished.

§ 1. INcest is Defined by Civilians, to be, *fœda & nefaria maris & fœminæ Commixtio, contra reverentiam sanguini debitam*; and they divide it into two kinds, *viz.* That which is against the Law of Nature, of this sort is all Copulation between Ascendants and Descendants; The other Branch, is that, which is against the Municipal Law of the Countrey, but our Law does not observe this distinction, for it is Enacted by *Parl.* 1. *Jac.* 6. *Act.* 14. That whosoever pollutes his Body with such persons in degree, as GOD's Word doth contain, *Levit.* 18. shall be punished with Death. By the Act of Assembly 1648. *Sess.* 38. Incestuous persons, in case the Magistrate doth not punish them Capitally, are to make publick profession of Repentance for the space of 52 Sabbaths; But

this Act is Innovate and Amended by the 4*th* Act of *Assemb.* 1705, and the 11. Act of *Assem.* 1707.

§ 2. Adultery is the violation of anothers Bed; Hence some give its Derivation *ad alterius thorum*, and is committed by Married person's lying with an Unmarried, or an Unmarried persons lying with one who is Married. If the Woman with whom the Adultery is committed was at that Time living as a common Whore, and the Committer was a single Man, and knew nothing of her being Married, his Punishment should be moderated on that account, but if the Man was Married, the Crime is the same, whether the Woman was a Whore or not, it being still a Violation on his part. And that the lying with a Man's Betrothed or Affidat Spouse, may be constructed Adultery, see *Pag.* 146, 147. For he who lyes with one who is to be shortly Married, renders the Succession as doubtful as he who lyes with a Married Wife. *Adultery, what.*

§ 3. Notour Adultery is by the 74 Act *Parl.* 9. Qu. *M.* Declared to be punishable by Death, after Premonition is made to abstain from the same manifest and notour Crime. Yet by the Explication of this Act given by 105 *Act Par.* 7. *Jac.* 6. That is only declared to be notour Adultery, where, *First*, There are Bairns ane or mae procreated betwixt Adulterers. *Secondly*, When they keep Company or Bed together notoriously known. *Thirdly*, When they are suspected of Adultery, and thereby give Slander to the Kirk, whereupon being Admonished to satisfie the Kirk, they contemptuously refuse, and for their Refusal are Excommunicate. If either of which three Degrees be proved before the Justices, the Committers are punishable by Death. *The difference betwixt single and notour Adultery.*

§ 4. Albeit there be no expres's Law for inflicting Death upon ordinary Adulterers, yet *Mackenzie* on this *Title* thinks, that Judges are not hindred to inflict the punishment of Death upon ordinary Adulterers, by any thing expressed in that forecited Act of *Jac.* 6. Otherwise, it should be an *Adultery, how punishable.*

Act

Act in prejudice of the Law of GOD, which expreſly ordains Adulterers to be put to Death, *Deut.* 22. by *Juſtinian's* 134. N. *Cap.* 11. The Civil Law is altered, appointing Death to be inflicted upon Adulterers. And by the Law of moſt Nations, Adultery is only puniſhed by pecuniary Mulcts. With us notour Adultery has been puniſhed with Death, and ſingle Adultery *Arbitrarié*.

How the Church Cenſures Adulterers.

§ 5. By the Act of Aſſemb. *Aug.* 5. 1642. All Presbyteris are ordained to give up to the Lords of Juſticiary, the Names of the Adulterers and Inceſtuous perſons, Witches and Sorcerers within their Bounds, that they may be Proceſſed and puniſhed according to Law. By Aſſembly 1648. *Seſſ.* 38. A perſon being once guilty of Adultery, is to make publick profeſſion of Repentance twenty ſix Sabbaths in Sackcloth, and a Relapſe in Adultery three Quarters of a Year: But this Act is Innovate and Amended by the forecited *fourth* Act of Aſſembly 1705. And by that ſame Act 1648, perſons guilty of Relapſe in Adultery are to be more ſummarly Excommunicated.

The Marriage ought to be proved, and what Probation is requiſite in Adultery.

§ 6. Since Adultery is only committed by married Perſons, it is therefore requiſite that the Libel in Adultery bear, that ſuch perſons were Married, and except it be proven or be notour to the Aſſize, they ſhould not File the Pannel, tho' Copulation be proved. Adultery may be proven by ſtrong and violent Preſumptions, as the being in Bed together alone, and being Naked, and the being frequently alone together: Likewiſe Gifts, Love-Letters, Cloſe Doors, the Wife's being Abroad all Night, the Entertaining perſons that are known to be Pimps, and Cohabitation, are all Preſumptions, upon which it is ordinary for Aſſizes to File Pannels, with the aſſiſtance of any other Probation.

How ſhe is to be Cenſured, who lyes with an unknown Man.

§ 7. By the 11. Act of *Aſſemb.* 1707. *Cap.* 4. If the Woman who hath brought forth the Child, doth declare ſhe knoweth not the Father, & that ſhe was not Forced, whether

Married

Married or Unmarried, the ſame Cenſure is to be inflicted upon her as in the caſe of Adultery. But if ſhe alledge ſhe was Forced in the Fields by a perſon unknown, in that caſe the former Behaviour of the Woman ſhould be inquired into, and ſhe ſeriouſly dealt with to be ingenuous; And if ſhe hath been of *intire Fame*, ſhe may be put to it to declare the Truth, as if ſhe were upon Oath, but not without the Advice of the Presbytery, and no formal Oath ſhould be taken.

Bigamy what, and its puniſhment.

§ 8. In our Law a Man marrying two Wives, or a Woman marrying two Husbands, commits Bigamy: And this is accounted by the 19 Act *Parl:* 5. Q. *M.* a Breach of the Oath made at Marriage, and therefore is puniſhable as Perjury, by Confiſcation of all their Moveables, Warding of their Perſons for Year and Day, and longer during the Queens Will, and as infamous perſons never to bruik Office, Honour, Dignity, or Benfice in time coming. It may be doubted if Quakers can be puniſhed as Perjurers, ſeing they give no Oath at Marriage, and certainly they ſhould, ſeing Marriage implyes a Vow, tho' no Explicite Oath be given. It may be doubted alſo if the two perſons marrying be guilty of Bigamy *eo ipſo* that they Marry, though becauſe of ſome interveening Accident they Bed not, but ſeing by the ſecond Marriage they give contrary Oaths, certainly they are guilty of Perjury: for Perjury being the *Medium peccati* in this Crime, and not *copulatio* or *coitus* as in Adultery. *Reatus contrahitur per contraria vota.*

A Rape, what, and its puniſhment.

§ 9. Rape, or Raviſhment, is that Crime which is committed in the violent carrying away a Woman from one place to another, for ſatisfying the Raviſhers Luſt, and is in the Civil Law puniſhable by Death. L. *Un.* C. *de Rap. Virg.* &c. The Canon Law deſcribes it thus, *Eſt rapina & violentia quædam, qua mulier de cujus nuptiis nihil actum eſt antea, abducitur, invitis parentibus.* By the 4. Act

Act *Parl.* 21. *Jac.* 6. It is declared, That albeit the Consent and Declaration of the Woman Raviſhed, declaring that ſhe went away of her own free Will: may free the Committer from Capital Puniſhment, yet ſhall it not free him from Arbritrary Puniſhment; Which Act inſinuates that the Crime with us is otherwiſe Capital.

Minors, and ſuch as force common Whores, how puniſhable.

§ 10. Since Minors are puniſhable for Adultery, much more ought they for a Rape: for Men in theſe Years, are more prone and liable to perpetrate ſuch Extravagancies, than when at a greater Age. Though it may ſeem that Whores are *infra legum obſervantiam*, and ought not to have Protection from Law, who offend againſt it; Yet if the Whore be now become a Penitent, and Reconciled to the Church, and for a long Tract of Time hath had a Chaſte and Laudabe Converſation: It may be doubted, if the Raviſher of ſuch a perſon, may not be puniſhed *pœna ordinaria*.

Fornication, what, and how puniſhed and Cenſured.

§ 11. Fornication is committed by the carnal knowledge of unmarried Perſons, the Canon Law diſtinguiſheth thus, *ſtuprum* (ſay they) *eſt Virginis defloratio, & illicitus cum vidua concubitus.* That Law commands ſuch Abuſers of Virgins to Marry them, the Parents conſenting thereto, and if they refuſe to do ſo, his Body is to be Chaſtiſed, and himſelf Excommunicated. But if the Father of the Corrupted Virgin will not beſtow her upon him in Marriage, then the Man is obliged to give her ſuch a Dowry as Virgins of her Degree and Quality uſe to get. That ſame Law ſays, ſimple Fornication is *Concubitus ſoluti cum ſoluta & impudica*, The puniſhment whereof is left unto the Judges diſcretion. That there ſhould be a diſtinction of puniſhment inflicted upon the Deflowrers of Virgins, and Abuſers of honeſt Widows, from theſe who abuſe themſelves with ſuch Women who have ſinned ſo already is very reaſonable. By the Act of Aſſemb. *Aug.* 10, 1648. Fornicators are to make profeſſion of their Repentance

three

three feveral Sabbaths; Who is guilty of a Relapſe therein, ſix Sabbaths; Who is guilty of a Trilapſe, twenty ſix Sabbaths; And of a Quadrilapſe, three Quarters of a Year, all in Sack-cloath, and are firſt to appear before the Preſbytery, confeſſing their Sin there, e're they be admitted to publick profeſſion of Repentance for it: But this Act is Reformed and Amended by the *Form of Proceſs* Enacted Aſſembly 1707, of which hereafter. By *Cap.* 38. *Seſſ.* 1. *Parl.* 1. *Car.* 2. Fornication is Fineable in 400 *libs.* to Noblemen, 200 *libs.* the Baron, 100 *lib.* the Gentleman and Burgeſs, and ten pounds every Inferiour Perſon; And that the Pain be doubled *Toties Quoties*, and to be Levied off the Man as well as the Woman, to be applyed to Pious Uſes. But if Fornicators be Inſolvent, they are to be puniſhed Corporally, according to the 13*th Act*, *Parl.* 1*ſt*, Jac. 6*th*.

§ 12. Albeit the ſubſequent Marriage of Fornicators may Defend them from Civil puniſhment, and likewiſe Legitimates the Children begotten before Marriage, according to the preſent practice, Yet the Church doth not Judge the Scandal given to be thereby Removed; and therefore by their Act *June* 11. 1646. they Appoint all Married perſons, under publick Scandal of Fornication before Marriage, although the Scandal thereof hath not appeared before Marriage, to Satisfy publickly therefore, their being in the ſtate of Marriage notwithſtanding, and in the ſame manner they ſhould have done if they were not Married. *What defends againſt the Puniſhment.*

§ 13. According to *Mattheus de Criminibus*, *Monſtroſa Venus eſt quæcunque vel virum vel fœminam mentitur*. With us the Confeſſion of Sodomy it ſelf, without any other Adminicles is ſufficient to Inferr the puniſhment of Death, except the Confeſſor be known, or at leaſt ſuſpected to be Diſtempered. Beſtiality is likeways puniſhable with Death, and the Endeavour is as highly puniſh- Venus Monſtroſa, *how puniſhed.*

able, if the Delinquent was only hindered by others; In both theſe Crimes Witneſſes who are lyable to Exceptions will be received, becauſe of the Atrocity of the Crime, as ſome Authors think; See *M'kenzie* on this Title. We have Reaſon to bleſs God that theſe Crimes are rarely committed, and ſome of them not ſo much as known in this Land, and therefore never any particular Statute againſt them hath yet been made. But our Libels againſt them, Bear, That albeit by the Law of the Omnipotent God, as it is declared *Levit.* 20. As well the Man who lyeth with Mankind, as the Man who lyeth with a Beaſt be puniſhable with Death, *&c.* The ordinar Puniſhment in both theſe is Burning, and the Beaſt is alſo Burnt or Drowned, with which the Beſtiality was commited; Partly for the prevention of Monſtrous Births, and partly to blot out the Memory of ſo loathſome a Crime.

TITLE XII.

Of Penny Bridals, Promiſcuous Dancing, Stage Playes, Immodeſty of Apparel, Drunkenneſs, Tipling, and Acts in General againſt Profaneneſs.

Penny-Weddings how Refrained.

§ 1. PEnny-Weddings are neither by our Civil nor Eccleſiaſtical Conſtitutions abſolutely Diſcharged, for that were to deprive the poorer ſort of the Satisfaction of meeting with their Friends on that Occaſion. But our Aſſembly conſidering that many perſons do invite to theſe Penny-Weddings exceſſive Numbers, among whom there frequently falls out Drunkenneſs and Uncleanneſs, for preventing whereof, by their Act *February* 13*th* 1645. They ordain Presbyteries to take ſpecial Care for Re-

Reſtraining the Abuſes ordinarly committed at theſe Occaſions, as they ſhall think fit, and to take a ſtrict Account of the Obedience of every Seſſion to their Orders thereanent: And that at their Viſitation of Pariſhes within their Bounds; Which Act is Ratified *March 8th* 1701. And by the 12*th Seſſ. Aſſem.* 1706. Presbyteries are to apply to Magiſtrates for executing the Laws relating to Penny Bridals, and the Commiſſion upon Application from them are to apply to the Government for obliging the Judges, who refuſe, to execute their Office in that Matter. By the 14*th Act, Parl.* 3*d, Car.* 2*d,* It is ordained, That at Marriages, beſides the married Perſons, their Parents, Brothers and Siſters, and the Family wherein they live, there ſhall not be preſent above four Friends on either ſide. And if there ſhall be any greater Number of Perſons at Penny-Weddings, within a Town or two Miles thereof, that the Maſter of the Houſe ſhall be fined in the Sum of five hundred Merks.

§ 2. The General Aſſembly by their Act *July* 19*th.* 1649, Finding that Scandal and Abuſe ariſes through Promiſcuous Dancing, do therefore diſcharge the ſame; The Cenſure thereof is referr'd to the ſeveral Presbyteries: Which is Ratified *March 8th* 1701. By the Church Diſcipline of *France, Cap.* 14. *Art.* 27. theſe who make account to Dance, or are preſent at Dancing, after having been ſeveral times Admoniſhed, ſhall be Excommunicated upon their growing Obſtinate and Rebellious, and all Church Judicatories are to ſee this Act put to Execution. By the 53 *Canon* Concilii Laodiceni, *Non oportet Chriſtianos ad nuptias venientes ballare vel ſaltare, ſed modeſte Cœnare vel prandere, ut decet Chriſtianos.*

Promiſcuous Dancing cenſurable.

§ 3. By the 28 *Art.* of the forecited *Chap.* of the *French* Church Diſcipline, Chriſtian Magiſtrates are exhorted not to Tolerate *Hocus Pocus*, and *Slight of Hand Plays*, nor *Puppet and* Stage *Players*, neither ſhall it be Lawful for

Stage-Players, &c. condemn'd.

Believers to aſſiſt at *Comedies* or *Tragedies*, and ſuch other Plays, acted in publick or private, ſeing that in all Ages they have been prohibited among Chriſtians, as tending to the corrupting of good Manners. Nevertheleſs, when in Colleges it ſhall be thought fit that Youth may Repreſent ſome Hiſtory, it may be Tolerated, providing it be not contained in the Holy Scriptures, and done very ſeldome, and even then by Advice of the *Colloquy*, which ſhall firſt be ſatisfied with the Compoſition. In the third Book of the *Digeſts*, *Tit.* 2. *De his qui notantur Infamia.* L. 2. § 5. *ſub Fin. Eos enim qui quæſtus cauſa in certamina deſcendunt, & omnes propter præmium in ſcænam prodeuntes, famoſos eſſe.*

Immodeſty of Apparel condemned.

§ 4. By the 25*th Art.* of the above-cited *Cap.* of the *French* Church Diſcipline, The Churches ſhall advertiſe Believers to uſe great Modeſty in Apparel, and ſhall give order to abate the Superfluity therein Committed. Nevertheleſs the Churches ſhall make no Law thereabout, the making of ſuch appertaining to the Magiſtrate. And by the 26 *Art.* All perſons who wear Habits that have open Marks of Diſſoluteneſs, Shame, and too much Newneſs, as, Painting, Naked Breaſts and the like, the Conſiſtory ſhall uſe all poſſible Means to ſuppreſs ſuch Badges of Immodeſty by Cenſures. All Obſcene pictures, which are apt to diſpoſe and incite to unclean Thoughts and Deſires, are moſt Improper Furniture for the Houſes of Chriſtians, and therefore the Uſers of them may fall under Church Cenſure if they be not removed.

Means and Conſiderations for preventing Drunkenneſs.

§ 5. Temperance is the Golden Mids between Abſtinence and Intemperance; for attaining whereof, when we are ſufficiently ſtrengthened and Refreſhed with our Ordinary Diets, we ſhould abſtain betwixt them, and if we will not ſuffer our ſelves to be thus Rationally bounded I cannot ſee how we can otherways eſchew the evil of being tempted to Exceſs in Drinking, both from the ſpeci-

ous

ous pretences and Solicitations of our own Voluptuous Tempers, and the Inticement and Example of others: And if we Tranſgreſs the Bound above-propoſed, we cannot but fall into Tentation; For as *Card. Bona, de vitæ Chriſtianæ principiis* ſaith, *ſæpe neſcimus utrum ſubſidium petat inevitabilis corporis cura, an fallacia concupiſcentiæ nos decipiat, & in hac incertitudine hilareſcit infelix anima, ut ſalutis obtentu intemperantiam excuſet.* Our Law ſeems to Approve and appoint this manner of Bounding, for the 20 *Act*, *Par*. 22. *Jac*. 6. Diſchargeth all haunting of Taverns and Ale-houſes after Ten hours at night, or any time of the Day, excepting time of Travel, or for Ordinary Refreſhments, under the pain of being puniſhed as Drunkards. And therefore, if one Accuſed for Drunkenneſs, deny the ſame, or Impute the Signs and Effects thereof proven againſt him, to other Cauſes, as Sickneſs of the Stomack, Giddineſs of the head or the like; theſe Defences, though they may be true, Yet are not Relevant to defend the Accuſed againſt the puniſhment of Drunkenneſs, providing his Tipling be proven by the unſeaſonable haunting of Taverns; And it needs not be thought hard that no Diſtinction is made betwixt Drunkenneſs and Tipling, ſeing it is a common Obſervation, that Tiplers are harder to be Reclaimed than Drunkards themſelves.

Tipling puniſhable, as Drunkenneſs.

§ 6. Among the Remedies propoſed againſt the Corruption of the Miniſtery, by Aſſembly June 13. 1646. Act 11. Miniſters are not only to forbear Drinking of Healths, called Satans Snare, leading to Exceſs, but likewiſe to Reprove it in others; And the following Act of Parliament puniſhing the Sin of Drunkenneſs, doth Appoint Exceſſive Drinking, eſpecially under the Name of Healths to be puniſhed. The Act I mean is 19. *Seſſ*. 1. *Par*. 1. *Car*. 2. Which Enacts that who drinks to Exceſs, or haunts Taverns as above, ſhall pay, the Nobleman 20 *lib*. The Baron 20 *Merks*, The Gentleman, Heretor, or Burgeſs 10 *Merks*

Drinking of Healths a Snare: Drunkenneſs, how puniſhed.

10 *Merks*, the Yeoman 40 *ſhill.* and the Servant 20 *ſhill. toties quoties*, and the Miniſter the fifth part of his Stipend: Which Fines are to be Applyed as the Fines for other Immoralities, and the Inſolvent are to be puniſhed in their perſons.

If ſuch as are drunk be puniſhable for Crimes, and can Contract.

§ 7. Such as Committ Crimes in their Drink, are ſometimes for want of Deſign and Malice, more meekly puniſhed than others, eſpecially if they were Cheated, upon Deſign, into that Condition by others. And in this Caſe, the Law Diſtinguiſheth *inter Ebrios*, who are rarely Drunk, and *Ebrioſos*, who are habitually ſuch; For theſe laſt ſhould be moſt ſeverely puniſhed, both for their Drunkenneſs, and the Crimes occaſioned by it. And ſuch as make themſelves drunk, upon deſign to excuſe or leſſen thereby the Sin they are to committ, merit no favour; And ſuch as know they were ſubject to Extravagancies in their Drink, merit as little. Perſons that are Incapable and Stupid through Drink, the Law not only forbids People to Contract with them, but makes all Contracts then made Reducible on that Head: The Law is ſo far from countenancing Fraud, that it Repairs the Injured againſt it; See *Stair's Inſtit. pag.* 98. and 602.

Presbyteries may appoint Informers againſt Vice. And how Judges refuſing to puniſh the ſame are lyable.

§ 8. By the 40 *Act*, *Seſſ.* 4. *Parl.* K. *W.* and Q. *M.* Presbyteries are ordained to appoint Informers againſt, and Proſecuters of profane Perſons, within their Bounds before the Civil Magiſtrate. And by the 13*th* Act of the following Seſſion of that Parliament, all Magiſtrates are ſtrictly required to execute the Laws againſt Profaneneſs at all times, and againſt all perſons, whether Officers, Souldiers, or others without Exception. And if any of theſe Judges ſhall refuſe or delay to put the ſaids Laws to execution upon Application from Miniſter, Kirk-Seſſion, or any in their Name, giving Information, and offering ſufficient Probation againſt the Offender, that every one of the Judges ſo refuſing or neglecting, ſhall, *Toties Quoties*, be ſubject

ject and lyable to a Fine of an hundred pounds, to be applyed for the uſe of the Poor of the Pariſh where the Scandal was committed. Declaring hereby, that any for the Kirk Seſſion or Miniſter, having their Warrant, may purſue any of theſe negligent Judges before the Lords of Seſſion, who are ordained to proceed Summarly, and that it ſhall be a ſufficient Probation of the Judges Refuſal, if the Purſuer Inſtruct by an Inſtrument under a Nottar's Hand, and Witneſſes thereto Subſcribing, and Deponing thereupon, that he made Application to the ſaid Judge, unleſs the Judge ſo purſued, condeſcend and inſtruct, that within the ſpace of ten Days after the ſaid Application, he gave Order to cite the Party complained on, within the ſpace of ten Days, and at the Day of Compearance, he was ready to have taken Cognition of the Scandal complained on, and inſtruct and condeſcend on a Relevant Reaſon why the Laws were not put to Execution. By the 31 Act of the 6 *Seſſ.* of K. *W. Parl.* It is Ordained, that in every Pariſh, where any of the ordinary Inferiour Judges happen to Reſide, they ſhall execute the Laws againſt Profaneneſs, and Mocking Religion and the Exerciſe thereof, at the Inſtance of any Perſon whatſoever who ſhall purſue the ſame; Certifying them if they failzie therein, either by themſelves, or their Deputs, the Lords of Seſſion will appoint Judges in that part. And in other Pariſhes where no ſuch Magiſtrates do Reſide, It is Ordained, That the foreſaid Perſons ſhall appoint Deputs for the ſaid Pariſhes, with the Power and for the End foreſaid, ſuch as ſhall be named to them by the Heretors and Kirk-Seſſion thereof. But, really, it is Forreign to Members of a Church-Seſſion, conſidered as ſuch, too choſe or preſent a Civil Magiſtrate, even as it is to a Civil Court, as ſuch, to chooſe or preſent the Members of a Kirk-Seſſion. And farder, they Diſcharge Advocation, *Simpliciter*, of Proceſſes, againſt Immorality from theſe Pariſh Judges; And likeways, all Suſpenſions of their

Pariſh Magiſtrates for puniſhing Vice. Their Sentences not to be Advocat or Suſpended.

their Sentences without Conſignation or Liquidate Diſcharges. It is alſo Ordained, that in Caſe of Calumnious Suſpending, the Lords of Seſſion, decern a third part more than is Decerned, for Expences; And Likeways, they Appoint the Fines to be Inſtantly payed in to the Pariſh Collector for the poor, or the party Impriſoned till ſufficient Caution be found for payment of the ſame, or otherways to be Exemplarly puniſhed in his perſon in caſe of Inability. It is alſo Enacted, that no pretence of Different perſwaſion in Matters of Religion, ſhall Exeem the Delinquent from being Cenſured and puniſhed for ſuch Immoralities, as by the Laws of this Kingdom are Declared to be puniſhable by Fineing. And it is Recommended to the Privy Council, to take further Effectual Courſe againſt profaneneſs, and for Encouraging of ſuch as ſhall Execute the Laws againſt it.

Difference in Religion exeems not from Church Cenſure.

Diſcipline to be faithfully Exerciſed, & how the Quality is to be Admoniſhed.

§ 9. By the Acts of Aſſembly for ſuppreſſing profaneneſs, they Appoint as follows. That Church Judicatories execute Diſcipline faithfully againſt all Scandalous Converſation, and in Particular, againſt Drunkenneſs and Swearing, but with that Gravity, Prudence, and Meekneſs of Wiſdom, as may prove moſt Effectual for Reclaiming them. And Miniſters are to be free with perſons of Quality for amending of their Faults, and if it be found needful, Preſbyteries are to Appoint ſome of their Number to concurr with the Miniſter in admoniſhing ſuch. Maſters of Families are to receive no Servants, but ſuch as have Teſtimonials of their honeſt Behaviour, and none ought to get Teſtimonials, but ſuch as are free of Scolding, Swearing, and ſuch like more Common Sins, as well as Fornication, Adultery, Drunkenneſs, and other heinous groſs Evils. And the Ordinary time of giving Teſtimonials is to be in face of Seſſion; But if an Extraordinary Exigent happen, let it be given by the Miniſter with Conſent of the Elder of the Quarter. If they have fallen, or Relapſed into Scandalous

Who grant and uſe Teſtimonials, Their Contents.

Scandalous Sins, let their Teſtimonials bear both their Fall and Repentance; But it were more Charitable that the Scandal were ſuppreſſed, and remembred no more. And Perſons of Quality removing to *Edinburgh*, or elſe where, with their Families and Followers, if they carry not Teſtimonials along with them, the Miniſter from whom they Remove, ſhall Advertiſe the Miniſter to whom they come, if to his knowledge they be lying under any Scandal. It is Recommended to Miniſters, Presbyteries, and Seſſions, to meet together for private Faſting and Prayer, and Conference about the State of the Church, with reſpect to the Growth and Decay of Godlineſs, and Succeſs of the Goſpel; and in theſe Days the Presbyteries ought to paſs their privy Cenſures, and both Synods and they are Exhorted to perform them with more Accuracy, Diligence and Zeal. It is Appointed, that Miniſters be frequent in private perſonal Conference, with thoſe of their Charge, about the ſtate of their Souls. And Presbyteries are to take ſpecial Notice of Miniſters, who do Converſe frequently and ordinarly with Malignants, and with ſcandalous and profane Perſons, eſpecially ſuch as belong to their Pariſhes. Whereas Men of Buſineſs for their too late ſitting in Taverns, eſpecially on *Saturdays* Night, do pretend Relaxation of their Minds; Therefore it is Recommended to Miniſters, where ſuch ſinful Cuſtoms are, to Repreſent the Evil thereof both publickly and privately, and call ſuch to Redeem that Time, which they have from Buſineſs, and imploy the ſame in Converſing with GOD. It is Appointed likewiſe, that Carriers and Travellers bring Teſtimonials from the Places where they Reſted on theſe LORD's Days wherin they were from Home, to their own Miniſters. An Abſtract of all Acts of Aſſemblies againſt Profaneneſs, is to be got and Printed, and alſo it is Overtured, That an Abſtract of all Acts of Parliament againſt the ſame be gotten. And each Presbyterie is to hear the ſame

Seſſions and Presbyteries are to keep Days for Prayer, and paſs privy Cenſures duely, and Miniſters to be frequent in Converſe.

Men of Buſineſs not to be excuſed for tarrying late in Taverns, and Carriers muſt have Teſtimonials.

Abſtracts of Acts of Parliament and Aſſembly againſt Vice to be got.

ſame Read twice a Year, at two Dyets to be appointed for that effect. And it is likewiſe Recommended to Presbyteries, to prepare Overtures to General Aſſemblies, that they being found proper Means for Curbing of Vice, may by them be Enacted. It is Appointed, that perſons groſly Ignorant be debarred from the Communion, for the firſt and ſecond Time, ſuppreſſing their Names, for the third Time expreſſing their Names,& for the fourth Time let them be brought to publick Repentance: This is to be underſtood of thoſe that profit nothing, nor labour for Knowledge; for if they be labouring to profit, they ought by the Act of Aſſembly to be Treated with more Forbearance. All which Means for ſuppreſſing of Profanity, are Enacted by Aſſemblies *Aug.* 10, 1648. *April* 14. 1694. *Jan.* 24. 1698. *Jan.* 30. 1699.

Groſs Ignorance how to be Cenſured.

TITLE XIII.

Of Theft, Sacriledge, Uſury, Falſhood, Beggars and Vagabonds.

Theft what how puniſhed, and when Excuſable.

§ 1. THeft is deſcribed by Lawyers to be *Fraudulosa contrectatio, lucri faciendi gratiâ, vel ipſius rei, vel etiam uſus ejus poſſeſſioniſve, quod lege naturali prohibitum eſt.* By the word *Contrectatio* they underſtand, not only the away-taking of a Thing, for Theft is commited not only by concealing what was taken from another, but likewiſe the uſing a Thing Depoſitate or Impignorate to other Ends and Uſes than was agreed upon. When one is urged by Neceſſity, not from a deſire to Gain, to take Food or Raiment from the Owners thereof, without their Conſent, he is not to be Deſpiſed, but rather Pitied

Pitied and Pardoned, *Prov.* 6. 30. By the 83: *Act Par:* 11. *Jac.* 6. It is Statute, That whoſoever deſtroys Pleugh, or Pleugh-graith in time of Tilling, or wilfully deſtroys the Corns, ſhall be puniſhed therefore by the Juſtices to the Death as Thieves. But our Practique in this is a little Arbitrary and uncertain. By the 26 *Act Seſſ.* 1: *Par.* 1. *Car.* 2. It is appointed, That the perſons from whom Goods are Stollen, purſuing the Thief, *uſque ad ſententiam*, ſhall have his own Goods again, where ever they can be had, or the Value, and he is to have his Expences of proſecuting the Thief, out of the readieſt of the Thief his Goods.

How ſtollen Goods are to be recovered.

§ 2. *Sacrilegus dicitur qui ſacra legit.* By the Canon Law, Sacriledge is committed, either properly, when a Thing Sacred is taken out of a Sacred place: or leſs properly, when a Sacred Thing is taken out of a profane place, or when a profane Thing is taken out of a Sacred place: This Crime is likewiſe committed when Sacred Things are Imbezeled. Though with us, there be no formal Conſecrations of Churches, Veſtments, Cups, *&c.* Yet to ſteal any Thing deſtinate to GOD's Service, or even to ſteal any Thing out of a Church, ought to be looked on as an Aggravation of the Crime of Theft.

Sacriledge what, and how puniſhed.

§ 3. The taking of more Annualrent, than the *Quota* ſtated by Law, is the firſt Branch of Uſury; The *Second* is, To take Annualrents before the Term of payment; The *Third* is, To take Wadſets in defraud of the Law; By doing this, they do not take more Annualrent directly than what is preſcribed by the Law, but they take Wadſets of Land from the *Debitor*, for more than their Annualrents can Extend to, and then they ſet Back-tacks to him, for payment of what is agreed upon. The *Fourth* Branch of Uſury with us, is, To take Bud or Bribe for the Loan of Money, or for continuing it. But it were againſt Reaſon, that by Lending Money to my Friend, I ſhould become

Uſury what, its ſeveral Branches, how it is proven, and puniſhed.

Incapable of a Donation from him. By the *Seventh Act Parl.* 16. *Jac.* 6. It is appointed, That Uſury ſhall be proved by the Oath of the Party Receiver, of the unlawful Annualrent, and Witneſſes inſert, without receiving the Oath ofthe Giver of the Uſury,for eviting Perjury. The pain of Uſury with us, is, That the Debitor ſhall be free from his Obligation, or have back his Pledge, or if the Debitor conceal, then the Revealer ſhal have Right to the Sums. Act 222. *Parl.* 14. *Jac.* 6. And by 248. *Act Parl.* 15. *Jac.* 6. It is appointed, That the Uſurary Bond or Contract ſhall be Reduced, and being Reduced, the Sum ſhall belong to His Majeſty or his Donators; And the Party to have Repetition of the unlawful Annualrent payed by him, in caſe only he concur with the Donator in the Reduction. Uſury is called *Crimen utriuſquc fori*, and how Miniſters are to be Cenſured for it, ſee *Lib.* 4. *Tit.* 5.

Falſhood what.

§ 4. Falſhood is a fraudulent Suppreſſion, or Imitation of Truth in prejudice of another. This Deſcription of *Crimen falſi*, or *Falſitas*, doth agree with that given by the Canoniſts, viz. *Eſt fraudelenta ſive doloſa veritatis imitatio, vel occultatio.* This Crime is committed in Write, either by producing a falſe Write, if they knew it to be falſe, and abide by it, or by fabricating a falſe Write. Again, it is committed by Omiſſion, in a Nottars not ſetting down what he was required to inſert in his Inſtrument, or the omitting to expreſs the Day and Place, when the omitting thereof might have been Diſadvantageous. By the 22 Act *Par.* 23. *Jac.* 6. The Makers or Uſers of falſe Writes, or Acceſſory to the making thereof, are to puniſhed with the pains of Falſhood; and the Counterfeiter, Falſifyer, or Acceſſory cannot by paſſing from the Write quarrelled, free himſelf from the puniſhment. The puniſhment of Forgery is declared by Act 22 *Parl.* 5. Q. *M.* to be Proſcription, Diſmembring of the Hand or Tongue, and other pains of the Canon or Civil Law. The

Falſhood in Write.

Second

Second Species of Falſhood is, That which is committed by Witneſſes in their Depoſitions, by taking Money to Depone or not Depone; by concealing the Truth, or Expreſſing more than the Truth, though they received no Money. And *Thirdly*, by Deponing Things expreſly contradictory, but in this Caſe, the Contradiction muſt be palpable, and not conſequential, *Nam omnis Interpretatio præferenda eſt ut dicta teſtium reconcilientur.* By *Cap.* 46. *Parl.* 6. Qu. *M.* Falſe Witneſſes, and their Inducers, are to be puniſhed by piercing their Tongues, Eſcheat of Moveables, and Infamy, and farder at the Judges diſcretion. Perjury differs not much herefrom, for it is Defined by Lawyers to be a Lie affirmed judicially upon Oath, and it is puniſhable by Confiſcation of all their moveable Goods, Warding of their Perſons for Year and Day, and longer during the Queens Will, & that as Infamous perſons they ſhall never be able to bruik Office, Honour, Dignity, nor Benefice in Time coming: For this ſee the 19 *Act Parl.* 5. Qu. *M.* There is a *Third* Species of Falſhood committed by Forging true Money without Authority, by Coining falſe Money, or by Mixing and Allayng Worſer with Nobler Mettals in current Coins, or by Venting and Paſſing the Adulterate Money Coined by others, or Entertaining the Forgers, or being Art and Part with theſe Coiners. This Crime is commonly puniſhed by Death. The *Fourth* Species of Falſhood is committed by uſing of falſe Weights and Meaſures. By the 19 *Parl.* 2. *Act Jac.* 6. The Uſers of falſe Weights and Meaſures, are to Tine their hail Goods and Gear. Having of falſe Weights in the Shop, preſumes Uſing, except this Preſumption be taken off, by alledging that the Weights were preſently Bought or Borrowed, or laid aſide as Light. Falſhood is alſo committed by Aſſuming a falſe Name, and by preſenting one Perſon for another at the ſubſcribing of Papers: for ſuch Impoſtors the Puniſhment

Falſhood committed by Witneſſes.

Perjury what, and how puniſhed.

Forging of Money, how puniſhed.

Falſe Weights, their puniſhment.

Aſſuming of a falſe Name, how puniſhed.

niſhment of Death hath been inflicted. *Decemb.* 12, 1611, mentioned by *Mackenzie* on this *Title.*

Beggars & Vagabonds, how ſuppreſſed and puniſhed.

§ 5. By the 22 *Act Parl.* 4. *Jac.* 5. No Beggar Born in one Pariſh, is to be allowed to beg in another, and Badges are to be made by the Headſmen of each Pariſh for that effect; which Law agrees with thoſe of other Nations, ſee *Matth. de Crim. de improba Mendicitate.* And by the 25. Title *Lib.* 11. of the *Codex de validis Mendicantibus*, they are diſtinguiſhed from the Poor, and puniſhed as we do ſturdy Beggars and Vagabonds, *Car.* 2. *Parl.* 1. *Seſſ* 3. *Cap.* 16. It is ordained, That all Maſters of Manufactories, may, with Advice of the Magiſtrates of the place, ſeize Vagabonds, and idle poor perſons, and imploy them in their Work, and Exact off the Pariſhes where they were Born, or if not known, the Pariſhes where they have Haunted for three Years before, two *ſhilling per diem*, in manner preſcribed in the Act. And thereafter may Retain them in their Service for ſeven Years for Meat and Cloaths. Sturdy Beggars and Vagabonds ſhould be proceeded againſt by the Sheriffs, and other Judges, and they may Exact Caution of them, but if they find none, they ſhould be denounced Fugitives, and they may be ſent to publick Work-Houſes, or Correction-Houſes, or put in the Stocks, and if they be Reſet after they are Denounced Fugitives, their Reſetters are liable for the prejudice ſuſtained, and the Parties Damnified will have Action againſt the Magiſtrates, within whoſe Bounds theſe Vagabonds are willingly Reſet. Vid. *Jac.* 6. *Parl.* 1. *Cap.* 97. and *Parl.* 11. *Cap.* 97. *Parl.* 12. *Cap.* 124. 144. 147. and *Parl.* 15. *Cap.* 268. and *Car.* 2. *Parl.* 2. *Seſſ.* 3. *Cap.* 18. By the Act of the General Aſſemb. *September* 1. 1647. It is Recommended to Preſbyteries, to conſider of the beſt Remedies, for preventing Abuſes committed by Beggars living in great Vileneſs, and many of their Children wanting Baptiſm.

TITLE

TITLE XIV.

Of Art and Part.

§ 1. THeſe who are Aſſiſters by Counſel or otherwiſe, are in our Law ſaid to be *Art* and *Part* of the Crime, by *Art* is meant, That the Crime was contrived by their Art and Skill, *eorum arte*; By *Part*, is meant, That they were ſharers in the Crime committed, when it was committed, *Et quorum pars magna*. The Civilians uſed, in place of Art and Part, *ope & Conſilio*: by our Law ſuch Aſſiſters are called *Complices*. *Art and part Explained.*

§ 2. By the 151 Act *Parl.* 11. *Jac.* 6. It is ordained, That nothing can be objected againſt the Relevancy of that part of the Summonds, which bears, that the perſons complained upon are Art and Part of the Crimes Libelled. But the Judge here is to conſider, whether the Adviſer gave the Counſel upon the account of former Malice, conceived by himſelf: Or if it was only given in Reſentment of any Wrong done to the Committer, and is to be more ſeverely puniſhed in the firſt Caſe than in the laſt. *Secondly*, In the caſe of Advice, the Adviſers Age is much to be conſidered: for tho' Minors, and thoſe who are Drunk may be puniſhed for Murder, yet it were hard to puniſh them for Advice. *Thirdly*, The Words in which the Advice were conceived, ſhould ſtill be Interpreted moſt favourably for the Adviſer, for Words are capable of ſeveral and diſtinct ſenſes, as they are underſtood by the reſpective Speakers, and they Vary by the very Accent or Punctation. *Fourthly*, If the Adviſer retracted his Opinion, he ought not to be puniſhed with *How far Advice imports Acceſſion.*

with the ordinary punishment, if he thereafter and instantly intimated to the person against whom the Advice was given, what danger he was in; and also dissuaded the Committer from following the Advice given.

Who are punishable as Accessaries in Adultery.

§ 3. He who allowed his House to the Adulterers, for perpetrating that Crime, or for Consulting about the Committing thereof, is certainly punishable, tho' it was not Committed. He who retains his Wife, after he found her Committing Adultery, and lets go the Adulterer, is punishable as a *Leno*, Pimp, or Baud, providing he take Money to conceal the Adultery, *Nam Lenocinium est, ubi Maritus quæstum facit de Corpore Uxoris.* He who gives Warrant and Order, or Hires others to commit Adultery, deserves the same punishment with the Adulterer, and in effect he is most guilty, seing he wants the natural Tentation of the Adulterer, and commits the Crime in contempt of the Law.

What is Lenocinium.

Panders, &c. and Innkeepers, how punishable for Whoredom and Drunkenness.

§ 4 Panders, Pimps and Bauds, making Gain of the Whoredom of others by their Help and Advice, deserve severe punishment as Accessaries to their Wickedness. As likeways the Keepers of Taverns and Ale-houses, who furnish their Guests with Liquors unto Drunkenness, or Sell those Liquors at unlawful Times, or to Drunkards, are to be punished themselves, as Drunkards, according to the Instructions given to the Justices of the Peace in the 19 Act *Parl.* 1. *Sess.* 1. *Car.* 2. And there seems to be good reason for it, seing the best of Druggs given to Excess, either as to Quantity or Quality, and whatever overpowers our Nature, is poisonable.

The End of the Third BOOK.

BOOK IV.

TITLE I.

Of Scandals and Church Diſcipline in General. Of the Method of Proceeding with the Scandalous, and how Scandals are to be Tabled before Church Judicatories.

Scandal. What.

§ 1. WE are not here to underſtand by Scandal, a Thing actually diſpleaſing the Party offended; Nor is it always to be judged by the Matter, ſeing Offence in Lawful Matter may be taken, where it is not given, as in that Eating and Drinking mentioned *Rom.* 14. Or, in taking Wages for preaching the Goſpel, 1 *Cor.* 9. Neither is it the Pleaſing of Men that doth always Edify them, nor the Diſpleaſing of them that doth Stumble or Scandalize them; But Scandal is ſomething accompanying Word or Deed, with ſuch Circumſtances as maketh that Word or Deed Inductive to Sin, or Impeditive of the Spiritual Life or Comfort of others.

When Offences are to be brought to Publick, and when not.

§ 2. Church Diſcipline ſerves chiefly to curb and reſtrain the more Peccant Humors of Profeſſors, and therefore Sins of Infirmity, ſtrictly ſo called, which are not in themſelves ſo Scandalous to others, ſhould not be any part of the Object thereof, otherwiſe its Exerciſe might prove more

Moleſting and Offenſive than Edifying and Sanative. Again, Offences from diſputable Practices, or Things indifferent, are not properly the Object of Church Cenſure, becauſe there is not a ſolid Ground therefrom for thorough Conviction to the Party. Further, Offences which the Church may find cannot be proven, ought not to be proſecute, for thus her Authority is much weakned, and neither is the Offender Edifyed. In the laſt place, Though ſome groſs Scandals (which are not publick or flagrant) may be proven by two or three Witneſſes (eſpecially if it be againſt a perſon otherwiſe Orderly) yet he is not therefore to be cited to appear in publick, except upon Suppoſition of his Obſtinacy to acknowledge the Offence to thoſe who knew and were offended therewith: Which Method is agreeable to that of Chriſt's preſcribing *Matth.* 18. for the Removal of private Offence. But on the other Hand, Scandal ſhould be taken publick notice of, when they are of their own Nature Groſs and Infectious, Next, When the Offence becometh publick, tho' at firſt it was not ſo, and when it is accompanyed with Contempt of private Admonition, or with frequent Relapſes therein.

The Ends and Uſe of Church Diſcipline.

§ 3. Church Diſcipline and Cenſures are for vindicating the Honour of Chriſt, that ſuffers in the Miſcarriage of any Member: Again, they are Inflicted on the Churches Account, for preſerving of her Authority, Diſcipline being as the Eccleſiaſtical Whip for that End, and for preſerving her from Corruption by the ſpreading of the Leaven of Profanity. Another End of Church Diſcipline is for the Offenders good, that they may be aſhamed to the deſtruction of the Fleſh, and ſaving of the Spirit in the Day of the Lord Jeſus, 1 *Cor.* 5. 5. Act 11. *Aſſem.* 1707. *Cap.* 1. *Sect.* 3.

Offences of the ſame kind, not to be always managed after the ſame manner.

§ 4. The ſame Offences upon the Matter are not to be proſecute at all times, nor againſt all perſons, and in all places, in the ſame manner: Thus we ſee the Apoſtle *Paul* in ſome Caſes cenſuring corrupt Men, as *Hymeneus* and,

Philetus

Philetus, 1 *Tim.* 1. 20. Sometimes he threatneth, and yet ſpareth, albeit the Scandal did merit Cenſure, *Gal.* 5. 12. He ſaith, *I wiſh they were cut off that trouble you*; Yet he cuts them not then off, becauſe he found not the preſent Circumſtances of the Church to require it. See alſo 2 *Cor.* 10. 6. where he ſaith, *Having in a Readineſs to Revenge all Diſobedience, when your Obedience is fulfilled*: Therefore it ought not always to be accounted Partiality, when ſuch Differences in Church Procedure are obſerved: Providing nothing be done with Reſpect of Perſons, on Civil or Natural Accounts: And alſo, providing the Difference, be rather in the manner and Circumſtances of proceeding againſt ſome Offences (eſpecially if they be ſuch where no Rule how to proceed againſt them is fixed) than in diſpenſing with what ſeemeth to be Material.

The Order, preſcribed, Matth. 18. to be obſerved, and what it Implies.

§ 5. The Order preſcribed by our Lord Jeſus Chriſt, *Matth.* 18. for repairing and proſecuting of private Offences, Implies, *Firſt*, That whether they be in leſſer Particulars, or in greater, yet if known to but a few, they are not inſtantly to be brought to publick (except ſome Circumſtance neceſſitate the ſame for greater Edification) which Order ought to be obſerved by Miniſters, Elders, and private Perſons, Act 11. *Aſſem.* 1707. *Cap.* 2. *Sect.* 1. It implies further, That when the Perſon offending doth accept of a private Admonition, there is then no more mention to be made thereof. Again, if that private Admonition prevail not, then the Perſon offended is purpoſely and ſeriouſly to take two or three with him, for the further Reclaiming and Admonition of the Offender, before it come to the Church, which may be fitly done at Miniſterial Viſitation of Families. Moreover, it Implies, if this hath not the deſired Effect, then is the Offence to be delated unto the Church-Seſſion: And when it is brought there, it were fit, that ſome who had been Witneſſes to the private Admonition, were brought with the Parties, to Inform the Judicatory,

dicatory, and Inſtruct that the Offender hath been ſeriouſly admoniſhed in private, but without Succeſs: Therefore it is convenient that the Witneſſes to the private Admonition be Members of the Seſſion. In the laſt Place, We may draw from this Order, that if the Seſſional Admonition have Weight with the Offender, ſo as to Reclaim him, and Satisfy thoſe he had Scandalized, there is no need for Rebuking him before the Congregation; Except the forbearing a Congregational Rebuke may Hazard the Infection of others, and Encourage them to follow the Offenders Practice.

When a Perſon is to be accounted Obſtinate.

§ 6. One is Obſtinate when he doth refuſe either to hear private Admonition, or doth decline to appear and anſwer before Church Judicatories, after a third Citation, either perſonally apprehended, or a Copy thereof left at his Dwelling Houſe: But one Citation given *apud acta*, is Peremptory, and Diſobedience thereunto may infer Contumacy likewiſe, Act 11. *Aſſemb.* 1707. *Cap.* 2. *Sect.* 4, 5. In the next Place, it is Contempt in one, when appearing, to Juſtify his Offence, or deny it when evidently proven. It is alſo Contempt, when one acknowledges his Offence, but with a proud and inſolent Behaviour; Or, who uſeth haughty, reflecting, or irreverent Expreſſions; Such as an Offender doth thereby vilify the Ordinance of Chriſt more than if he had made no Compearance at all. Laſtly, It may be conſtructed a not hearing of the Church, when one continues to committ the ſame Sins, notwithſtanding of his Serious-like Penitence for the ſame.

What Satisfying, and what not for Removing of Scandal.

§ 7. Every verbal Acknowledgement and Promiſe of Amendment, ought not always to be ſo Satisfying as to Siſt Proceſs; for notwithſtanding of all that, the Offenders Geſture when Compearing, his Expreſſions elſe-where, and his common Walk and Converſation, may convince the Judicatory that he is but a Mocker; On the other Hand, Church Officers ought not to delay the removing of an Offence

Offence, till they be ſatisfied that the Offender is ſincerely and graciouſly Penitent, for that would engage Church Judicatories to Decide as to the ſtate of ſome Souls, which is bold for them judicially to Dive into, and when all is done, impoſſible to arrive at any certainty about it. It is to be noticed, that in Church Diſcipline, a difference is to be made between what is ſatisfactory unto a Church Judicatory, ſo as to admit the Offender unto all Church Privileges, as if the Offence had never been; and what may be ſatisfying, ſo as to fiſt Procedure for the time. Upon *Simon Magus* his Confeſſion *Acts* 8. 24. It is probable, that as he then did thereby prevent Excommunication; So upon it, it is not probable that he was thereupon immediately admitted into Church Communion. There is requiſite then in the Offender, who intendeth to have Acceſs to Church Privileges, a ſober, ſerious acknowledgment of the Offence, with the Expreſſion of an Unfeigned like purpoſe to walk Inoffenſively, and eſpecially to watch againſt Relapſes; And if there appear no ground for hindering the Judicatory to eſteem the Offender one, who purpoſeth as he expreſſeth, they ſhould accept of his Expreſſions as ſatisfactory.

Who are to be admitted to publick Repentance, and when to be Abſolved.

§ 8. By the Act of Aſſembly 1596, Ratified 1638. It is appointed, That none falling into publick Slanders be received into the Fellowſhip of the Kirk, except the Miniſter have ſome Appearance and Warrant in Conſcience, that he hath both a feeling of Sin & apprehenſion of Mercy, and for this effect, that the Miniſter travel with him in Doctrine, and in private Inſtruction, to bring him hereto, and eſpecially in the Doctrine of Repentance, which being neglected, the publick place of Repentance is turned into a Mock. By the 4. Act of *Aſſem.* 1705. They do Appoint and Ordain (with reſpect to Scandals, the groſſneſs whereof makes it neceſſary to bring the perſons guilty oftner than once before the Congregation) that after ſuch perſons

ſons are Convict before the Seſſion, it be judicially declared unto them, That they have rendred themſelves Incapable of Communion with the people of GOD in Sealing Ordinances, and that they be appointed to appear in publick to be Rebuked for their Sin, whether they appear Penitent or not, conform to the Divine Inſtitution, 1 *Tim.* 5. 20. And it is referred to the reſpective Church Judicatories concerned, to Determine how often ſuch Delinquents ſhall appear in publick: And they Ordain, that after a publick Rebuke, the Miniſter and Elders be at further pains in Inſtructing the Minds of the Scandalous, and that the Seſſion upon Satisfaction with their Knowledge, and Senſe of their Sin, do admit them to publick profeſſion of their Repentance, in order to Abſolution. But, if after taking pains on them for ſome competent Time, they ſtill remain groſly Ignorant, Inſenſible and Unreformed, the Seſſion is to adviſe with the Presbytery, and if the Presbytery ſhall ſee Cauſe, that then the Sentence of the leſſer Excommunication be pronounced againſt them in Face of the Congregation, from which they are not to be Relaxed, nor admitted to make publick profeſſion of their Repentance, in order thereto, till the Seſſion be ſatisfied with their Knowledge, Seriouſneſs and Reformation.

Drunkenneſs, Swearing, &c. how to be proceeded againſt.

§ 9. By the 11t Act *Aſſemb.* 1707. *Cap.* 3. In Offences, ſuch as Swearing, Curſing, Profaning of the LORD's Day, Drunkenneſs, and other Scandals of that nature, ordinarly the guilt for the firſt Fault would be ſpoken to in private by the Miniſter or an Elder, and on promiſe (from a ſenſe of Guilt) to amend after Admonition, they may ſiſt there; But if the Perſon Relaple, he ſhould be called before the *Seſſion*, and if found guilty, may be there judicially Rebuked, where the Seſſion on promiſe, from a due ſenſe, to amend, may again ſiſt; But if the perſon amend not after that, the Seſſion ſhould orderly proceed, unleſs Repentance appear, and due *Satisfaction* be offered,

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till they inflict the Cenſure of the leſſer Excommunication.

§ 10. Perhaps an Offender may make ſuch ſatisfying Acknowledgments for his Scandal, that the Judicature cannot but judge them ſufficient to remove the ſame, but only he refuſes to appear in the accuſtomed Place, where Scandalous Perſons do publickly profeſs their Repentance, in which caſe, I am ſure that Formality and Circumſtance of a fixed Place is not of ſuch moment, as to bear the Streſs and Weight of one ſatisfying the Church. For the Apoſtolical order, 1 *Tim.* 5: 20. Joyning all who have offended, publickly to be Rebuked before all, is ſufficiently Anſwered by their receiving a publick Rebuke for their Scandal, in the uſual Place and Seat where they hear the Word Preached, and that without putting of their perſon under Arreſt in ſome certain place, for ſome time.

Publick place of Repentance, how a Civil Puniſhment.

§ 11. The Key of Doctrine differs from the Key of Diſcipline, thus; The firſt doth only Abſolve a Sinner upon the condition of ſaving Grace, but the other doth Abſolve upon an outward ſerious Profeſſion of Repentance; By the one Mens Faults are only Reproved, but by the other, particular perſons are by Name Reprehended. Tho' a perſon be guilty of ſome alledged ſcandalous Sin, yet a Miniſter cannot, in publick, give him an Eccleſiaſtick Rebuke for it, without the previous Trial, and thereafter the Sentence of a Church Judicatorie, otherwiſe he uſurpeth their Authority, and ſheweth more of himſelf than of reſpect to Church Order and Edification. Indeed I confeſs a Miniſter may ſometimes very conſequentially from his Text reprove ſuch Sins and their Aggravations, as may make Impreſſion upon all the Hearers, that the Application does agree with ſuch circumſtantiate Sins, whereof they know ſuch perſons to be guilty. In which caſe, the Reproof is to be regarded as coming from the Word of GOD: But if there muſt be a plain Deviation from the Text, ere the Preacher

Keyes of Doctrine and Diſcipline, how they differ.

Preacher can get that Sin then Reproved, in that case it looks somewhat like a Design, and cannot but be feared it may want its due Authority. Now a Minister may easily prevent this, if he shall but choose those Texts which point, without any violence, against such Sins.

When necessary that Offenders should speak in publick, & how a publick Rebuke is to be given.

§ 12. At the Offenders first appearance, he is to acknowledge himself guilty of the Sin for which he is to be Rebuked. Again, he should Edifyingly declare his Sorrow for it before Absolution, that the Congregation may the more cordially Re-admit him into their Communion. But much or oft speaking is to be demanded or allowed, as it may be found most Edifying: Yet all Recantations of Errors are always to be made Explicitly. A publick Rebuke ought to be so managed, that there be no ground given for Constructing it a Pennance, Punishment, or Mark of Reproach, but the Minister is to carry therein, as one much affected and afflicted with the Sin, he is to behave Authoritatively, having Words fitted for Edifying the Congregation, and humbling of the Offender. And that the Authority and Solemnity of the Rebuke may have the deeper Impression on all, it were fit that GOD were Addressed in reference thereto, either before or after the Rebuke:

Inscribere in Crimen, *what, who is a Calumnious Accuser: and who cannot Accuse, how Informers are to be Censured.*

§ 13. Matters may fall under the Cognition of Church Judicatories several ways, as *First*, By Accusation, when a Party formally appeareth, as an Accuser, and is content *Inscribere in crimen*, That is, to bind himself to underly the same Censure, (he not proving the Accusation) which the Defender would have Merited had the Libel been proven. If, upon Tryal, there be found any presumptions of Guilt, or if it appear that there was a *fama clamosa* for what is Libelled, the Pursuer in that case ought not to be repute a calumnious Accuser, even though he succumb in his probation. No Infamous Person can be admitted an Accuser. Infamy, by *Matthæus de Criminibus*,

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is defined, *Ignominia, seu Existimationis læsio, qua quis virorum honestorum numero eximitur.* Neither are such as are Contemners of Church Authority, or who have been in former Pursuits Rash and Calumnious, to be admitted Accusers. A formal Accuser is not necessary when the Offence is publick. If a Party cited either upon Accusation, or Order of the Judicatory, be found Innocent and Acquitted, these who Inform them thereof, whether the Party require it or not, ought to be noticed, either for their Calumny or Impudence, as they shall find cause, Act 11. *Assemb.* 1707, *Cap.* 2. *Sect.* 8.

Scandals Tabled by Inquisition, Delation, & Exception.

§ 14. An Accusation, though unduely given, should have this Effect, as to prompt the Judicatory to Enquire and Search into the Truth of the Things Represented; This gives no Allowance to search and pry into Faults *ex levibus conjecturis*, but the Warrant for it should be founded upon *Fama publica, clamosa, & frequens.* A Delation is a verbal Information or Intimation made against some persons, for Faults and Offences, unto the Members of a Church Judicatory. By the Canon Law, an Informer or Delator doth differ from an Accuser in this, That he is not obliged *Inscribere in Crimen*, neither incurrs he any penalty albeit the Information be not proven; And by the 11. Act *Assemb.* 1707, *Cap.* 2. *Sect.* 10. The Informer may be a Witness, except in the case of pregnant Presumptions of Malice against the Person Accused, or where he formerly Complained for his own Interest. Many times Offences & Scandals are discovered to Church Judicatories, by the Exceptions or Objections proponed by Parties against each other; I confess, there useth to be too much Liberty taken for Recriminations in Processes, which at any other time were more Inexcuseable.

An Informer may be a Witness.

Where Scandalous Persons are to satisfy, & what warrands a Church Session to admit Process for Uncleanness.

§ 15. When persons guilty of Uncleanness Live in different Parishes, the Process and Censures against them are to be before that Session where the Woman liveth, or where

where the Scandal is moſt nottour. If the Uncleanneſs be committed where neither Party Reſides, as perhaps in the Fields, or in time of Fairs or Markets, in theſe Caſes, they are to be Proceſſed and Cenſured where their ordinary Abode is, except the place of their Abode be at a conſiderable diſtance from the place where the Sin was committed, and the Scandal be moſt flagrant where it was committed. The Seſſion where the Sin is to be Tryed and Cenſured, is to acquaint the other Seſſion where any of the Parties Reſide, who are, *ex debito*, to cauſe Summond them to compear before that Seſſion where the Scandal is to be Tryed: Church Seſſions are not to enter upon Proceſſes for Uncleanneſs, where there is not a Child in the caſe, unleſs the Scandal be very Flagrant: For, upon the one hand, many of theſe Actions, which give occaſion to the raiſing the Scandal of Uncleanneſs, are ſuch as are not themſelves alone publickly Cenſurable, but are to be paſt by with a private Rebuke: Yet on the other hand, ſome of theſe Actions, which come under the Name of Scandalous Behaviour, may be ſo Laſcivious and Obſcene, and clothed with ſuch Circumſtances, as may be as Offenſive and Cenſurable, as the Act of Uncleanneſs it ſelf, Act 11. *Aſſemb.* 1707. *Cap.* 4.

TITLE II.

Of the Tranſaction, and Preſcription of Scandals.

Tranſactions betwixt Parties doth not Aſt Proceſs.

§ 1. THough a Party who commenc'd a Proceſs of Scandal, doth Diſclaim or Renounce the ſame, yet the Church may proceed; for Tranſactions between Parties, cannot take away the Churches Intereſt in removing

removing Offences; Yea even tho' a Party hath been Diſmiſſed for a time through want of Probation, if it ſhall afterwards Emerge, the Proceſs may thereupon be Wakened.

The time for preſcription of Scandals, and requiring of Teſtimonials.

§ 2. By the 11. Act Aſſemb. 1707. *Cap.* 1. § 4. The ſeveral Judicatories of this Church ought to take timeous Notice of all Scandals: But it is judged, that if a Scandal ſhall happen not to be noticed in order to Cenſure, for the ſpace of *Five Years*, it ſhould not be again Revived, ſo as to enter in a Proceſs thereanent (unleſs it be of a very heinous Nature, or become again Flagrant) but the Conſciences of ſuch perſons ought to be ſeriouſly dealt with in private, to bring them to a ſenſe of their Sin and Duty. And for the ſame Reaſon, perſons who have Reſided in Pariſhes, for the ſpace foreſaid, ſhould not ordinarily be challenged for want of Teſtimonials. When nothing hath been objected by the Members of Presbyteries or Seſſions, againſt any of the Miniſters or Elders, at the privy Cenſures of theſe reſpective Judicatories, the Members thereafter ought not to be heard, in their Accuſations againſt one another, for any thing that was committed before the laſt privy Cenſure. And neither ſhould the People be heard in their Accuſations againſt any of their Miniſters or Elders, or any of the Miniſters or Elders againſt one another, for any thing that was committed prior to the laſt Presbyterial Viſitation of the Pariſh; Becauſe then it was the Seaſon, and *Hour of Cauſe*, to have propal'd it, if private Methods had not ſucceeded for removing the ſame: And the inſiſting, after ſuch an Omiſſion, is rendered moſt ſuſpect, unleſs ſatisfying Reaſons be given for it. See § 9. *Cap.* 7. of the forecited Act of Aſſembly.

TITLE III.

Of Libels Probation, and Citation.

A Libel, what.

§ 1. A Libel is a Law Syllogiſm, conſiſting of the Propoſition or Relevancy, which is founded upon the Laws of GOD, or ſome Eccleſiaſtical Conſtitution agreeable thereto, as, whoſoever is abſent from publick Divine Service on the LORD's Day, ought to be Cenſured. The ſecond Part conſiſts of the ſubſumption or probation, which condeſcends on matter of Fact, *viz.* But ſuch a perſon did, upon ſuch or ſuch a LORD's Day, abſent unneceſſarily from the publick Worſhip of GOD. The third Part conſiſts of the Concluſion or Sentence, which contains a Deſire, that the Profaner of the LORD's Day, according to the Laws and Cuſtoms mentioned in the firſt Part, may be Cenſured.

A Copy of the Libel with a Liſt of Witneſſes to be delivered, it muſt condeſcend on Time *and* Place.

§ 2. By *Cap.* 2. *Sect.* 7. *Act* 11. *Aſſem.* 1707. The Moderator is to Inform the Offender appearing, of the Occaſion of his being Called, and to give him, if deſired, a ſhort *Note* thereof in Writing, with the Names of the Witneſſes that are to be made uſe of againſt him, that ſo he may be prepared to Defend himſelf, which is agreeable to the common principles of Juſtice and Equity. The Libel muſt condeſcend on *Time* and *Place*, when and where the Facts and Offences libelled were committed, that ſo the Offender may not be precluded from proving himſelf to have been *Alibi*, and ſo impoſſible for him to have done ſuch a Deed, or ſo Offended at the Time and Place Libelled.

§ 3.

§ 3. The Relevancy of the Libel is the Juſtneſs of the Propoſition, whether the Matter of Fact ſubſumed be proven or not; And therefore, if the Thing offered to Probation be obviouſly Irrelevant and Frivolous, it ought to be Rejected and not admitted to Proof. For nothing is to be admitted by any Church Judicatory as the Ground of a Proceſs for Cenſure, but what hath been declared cenſurable by the Word of God, or ſome Act or Univerſal Cuſtom of this Church agreeable thereto, as ſaid is, *vide Sect.* 4. *Cap.* 1. forecited Act. Albeit one Article of the Libel, *per ſe*, be not Relevant, Yet if three or four Articles *conjunctim* be Relevant, the ſame may be admitted to Probation. The Relevancy of a Libel is ſo much to be regarded, that, I think, it's Unlawful for any to be either Witneſſes or Members of Inqueſt upon irrelevant Libels. What? Is not this to be a *Witneſs againſt thy Neighbour without Cauſe*, Prov. 24. 28. It was a Truth that *Abimelech* the Prieſt gave Hallowed Bread, and the Sword of *Goliah* to *David*; Yet it was a Bloody Sin for *Doeg* the *Edomite*, to Inform the wicked King againſt the Lord's Prieſt, 1 *Sam.* 21 and 22 *Chap.* It was a Presbyterian Miniſter's Duty to preach the Goſpel under the late Perſecution, ſecretly and cautiouſly, to honeſt Hearers at their Deſire; Yet it would have been a *Doeg*-like Sin, to have witneſſed the Truth in that Matter before our then Judges, ſeing by the *8th* Act of *Parl.* 1685. It was Death for ſuch, even to preach in Houſes. What is here ſaid againſt ſuch Witneſs-bearing, ſtrikes with as much Force againſt the Members of Inqueſts finding ſuch Irrelevant Libels proven, for tho' it was both true, what the one Witneſſed, and the other found, yet I would be affraid, if I were in their Caſe, that before God I ſhould be condemn'd as acceſſory to the ſhedding of Innocent Blood. Before the Witneſſes be Judicially Examined, the accuſed Party is to be called, and the Relevancy of the Libel diſcuſſed, *Sect.* 10. *Cap.* 2. *Act foreſaid.* But in Cauſes

What is a Relevant Libel. It is unlawful to be Witneſſes or on the Aſſize of Irrelevant Libels.

When the Relevancy is to be diſcuſſed.

Cauſes Intricate and Difficult, the Diſcuſſing of the Relevancy may be delayed till Probation be taken: And then, greater Light being thereby given, both Relevancy and Probation may be adviſed joyntly, as the Lords of Seſſion and Privy Council have often-times done.

Exculpation Deſcribed, & when to be granted.

§ 4. When the Libel is Read, the Defender ſometimes propoſeth a Defence, which if admitted and proven, Exculpates and Clears him from the Fault libelled, either in whole or in part; As, if the Libel be Murder, and the Defence *inculpatæ tutelæ*; Or if the Libel be Adultery, at ſuch a time and place, and the Defence be *Alibi*. But the Party accuſed muſt before Probation offer the Grounds of Exculpation to be proven by Witneſſes; In which Caſe the Moderator and Clerk, if required, are to give Warrant to cite Witneſſes upon the Parties Charges, the Relevancy of the offered Exculpation being firſt ſuſtained by the Judicatory: And if the Exculpation be fully proven, all further Proof of the Libel muſt there ſiſt. But if the Subſtance of the Scandal be once proven, there can be no place for Exculpation, unleſs it be as to ſome extenuating Circumſtances, not contrary to, but conſiſting with the Depoſitions already taken.

Probation, What, and by Confeſſion.

§ 5. Probation is that, whereby the Judge is convinced, that what is aſſerted is true, and he muſt be convinced either by Confeſſion or Oath of Party, or Writ, Witneſſes, or Preſumptions as follows. Probation by Confeſſion, if Judicial, is the ſtrongeſt of all Probation; But if Men confeſs a Crime, rather from Wearineſs of, or Averſion to Life, than from Conſcience of Guilt; Or, if there appear any Signs of Diſtraction or Madneſs, then ſuch Confeſſions ought not to be reſted upon, except they be Adminiculate with other Probation. Confeſſions before a Church Judicatory, are not reſted upon before civil Courts, except they be Renewed before themſelves; And ſo it is *e contra*, for Men may incline to confeſs Things before Church Judi-

Judicatories, knowing that Church Diſcipline is *Medicina, non Pœna*, or *Ob Levamen Conſcientiæ*, which ought not to be diſcouraged; Whereas they may deny the ſame Fault, and Reſile before the civil Judge, for fear of Corporal Puniſhment.

Oath of Calumny, Verity, and Credulity, What.

§ 6. An Oath of *Calumny* may be exacted of either Party, whereby they Swear that they believe or judge, that the Points they inſiſt on, are both juſt and true, and they will be holden as Confeſſed, if they refuſe to Depone when required. By an Oath of *Verity*, or for Confirmation, the Swearer poſitively affirmeth by his Oath, that what he aſſerteth is true; And it is the only Oath ſworn by a Party which can Terminate the Plea and Strife. But by an Oath of *Credulity*, the Swearer doth not aſſert the Verity of the Matter, but the Verity of his Belief of the Matter, which only terminates the Plea in ſo far as to Exclude him who Sweareth, from Inſiſting on theſe Points contrary to his own Belief or Perſwaſion, *vide* Stair's *Inſtit. pag.* 698. 701.

Probation by Oath of Party Inſtanced; It is not to be preſſed.

§ 7. If the delated Father of a Child, after private Conferences, do ſtill deny, then the Seſſion is to cauſe cite him to appear before them: If he perſiſt in his Denyal, when compearing, he is to be Confronted with the Woman, and the Preſumptions held forth as particularly as poſſible: And if after all this he deny, tho' the Woman's Teſtimony can be no ſufficient Evidence againſt him, yet pregnant Preſumptions, ſuch as, ſuſpicious frequenting her Company, or being *ſolus cum ſola, in loco ſuſpecto*, or in ſuſpect Poſtures, and ſuch like, which he cannot diſprove, may ſo lay the Guilt upon him, as to ſhew him, that there appears no other way of Removing the Scandal, but his appearance to be publickly Rebuked therefore: If he will not ſubmitt himſelf to be Rebuked, it is eaſier that a true Narrative of the Caſe be laid before the Congregation, and Intimation given, that there can be no further Procedure in the Matter, till God.

God in His Providence give further Light; than that an Oathbe preſſed, and upon Refuſal proceed to the higher Excommunication. But if the perſon accuſed do offer his Oath of Purgation, and crave the privilege thereof, the Presbytery may allow the ſame, the Form whereof may be as follows.

Stile of the Oath of Purgation.

§ 8. I *A. B.* now under Proceſs before the Preſbytery of for the Sin of alledged to be committed by me with C. D. and lying under that heavy Slander, being repute as one guilty of that Sin: I, for ending the ſaid Proceſs, and giving Satisfaction to all good People, Do declare before God, and this that I am Innocent and Free of the ſaid Sin of or having Carnal Knowledge of the ſaid C. D. And hereby I call the Great God, the Judge and Avenger of all Falſhood, to be Witneſs and Judge againſt me in this Matter if I be guilty, and this I do by taking His bleſſed Name in my Mouth, and in Swearing by Him who is the great Judge, Puniſher and Avenger as ſaid is, and that in the Sincerity of my Heart, according to the Truth of the Matter, and my own Innocence, as I ſhall anſwer to God in the laſt and great Day, when I ſhall ſtand before Him, to anſwer for all that I have done in the Fleſh, and as I would partake of His Glory in Heaven, after this Life is at an end.

When and where this Oath is to be allowed and taken; And its Effects.

§ 9. But this Oath is not allowed to be taken in any Caſe but this, when the Preſumptions are ſo great, that they create ſuch Jealouſie in that Congregation and Seſſion, that nothing will Remove the Suſpicion but the Man's Oath of Purgation; And when his Oath will indeed Remove the Scandal and Suſpicion; In all other Caſes this Oath is in vain, and ſo ſhould not be admitted, and never but by Advice of the Presbytery. It is to be taken, either before the Seſſion, Presbytery, or Congregation, as the Presbytery ſhall determine. And if it be taken before the

Seſſion

Seſſion or Presbytery, it is to be Intimate to the Congregation, that ſuch a perſon hath taken ſuch an Oath, and the Party may be obliged to be preſent in the Congregation, and may be put publickly to own his Purging himſelf by Oath, and thereupon be declared free from the alledged Scandal. All what concerns this Oath, is Recommended by *Cap.* 4. *Sect.* 6, *&c.* of the forecited Act of Aſſembly.

How the Woman is to be Cenſured when the Fact is not proven againſt the Man.

§ 10. After an end is made, as above, with the perſon delated as Father, the Woman is to be dealt with to give the true Father; And if after all ſerious Dealing and due Diligence, ſhe give no other, ſhe is to be cenſured according to the Quality of the Offence confeſſed by her, without naming the perſon delated; The Judicatory reſerving place for further Cenſure, upon further Diſcovery.

How a voluntar and malicious Confeſſor of Uncleanneſs is to be Cenſured.

§ 11. If a perſon do voluntarly confeſs Uncleanneſs where there is no Child, and the caſe be brought to the Kirk-Seſſion, they are to Inquire whether it floweth from Diſquietneſs of Mind, or from Siniſtrous Deſign; As when a Man ſuing to a Woman for Marriage, is denyed, but ſpreads the Report that he hath been Guilty with her. If it be found that there is no Ground for the Confeſſion, the perſon confeſſing is to be Cenſured as defaming himſelf, and likewiſe as a Slanderer of the other Party: And withal, Application is to be made by the Seſſion to the Civil Magiſtrate, that he may be puniſhed according to Law: See that forecited fourth Chapter of the Act of Aſſembly.

Probation by Writ.

§ 12. It is rare to prove a Scandal by Writ, but yet it may happen ſo to be proven, and the want of the Writer's Name and Witneſſes, ought to be no Objection in Church Courts againſt Writs, more than in Bills of Exchange. If one denyeth that to be his Subſcription, it is hard to ſuſtain its being proven to be his *per comparationem Literarum*, which is but a Preſumption, and Men's Hands may be ſometimes ſo Artificially Imitated, that it ſhall be hard

to discern which is which; Beside, one Man's Writ may differ from it self at several Occasions.

Probation by Presumptions. § 13. Probable Presumptions, and many Concurring, may do much to prove, especially in such things which rarely can be proven with ordinary Clearness. The Presumption of Cohabitation, after the Parties are discharged, is sufficient, as may be seen on that Title, to Inferr Adultery: Also, Cohabitation, and behaving as Man and Wife, for some considerable time, presumeth Marriage: And the Depositions of Witnesses, are sometimes founded upon Presumptions, as when they depone upon Things which depend upon Acts of the Mind, as, Ebriety, & *dolus malus*. But when a Libel is only proven by Presumptions, it is not so safe to pass the ordinary Censure thereupon, as if it had been proven by Unexceptionable Witnesses and full Probation.

Form of a Diligence against Witnesses, their Non-compearance to be Censured. § 14. Witnesses may be cited on fewer days than Parties. The Diligence against them may run in this Form, *viz.* Mr. *A. B.* Moderator, &c. Forasmuchas Pursuer, &c. having applyed to us for a Diligence to cite Witnesses in the said Matter, in Manner and to the Effect underwritten. Therefore we require you, that upon sight hereof, ye pass and Lawfully Summond personally, or at their Dwelling Places, to compear before us within the Kirk of upon the day of In the Hour of Cause with continuation of Days, to bear Leal and Soothfast Witnessing, upon the Points and Articles of the said Process, in sua far as they know, or shall be speared at them, with Certification as Effeirs; And this our Precept you are to Return duely Execute and Indorsate. Given, &c. by Warrant, &c. If Witnesses refuse after three Citations to compear, then they may be proceeded against as Contumacious: Or, if judged needful, after the first or second Citation is disobeyed, Application should be made to the civil Magistrate, that he may oblige them

them to appear. See that *9th Sect. Cap. 2d.* of that frequently above cited Act of Assembly.

Objections against Witnesses.

§ 15. In Church Judicatories, Women and Minors past fourteen Years of Age, are received Witnesses. If the Defender appear, he may Object against any of them, and if the Objection be Relevant, and made Evident to the Judicatory, the Witnesses are to be cast: For which see that same Act. The Objections of Infamy, or Enmity, are Relevant to cast any Witness: But the Design of Church Courts being *ad tollendum scandalum, & ad eruendam veritatem*, they will sometimes receive Witnesses *cum nota*, against whom some common and general Objections have been made, Reserving to themselves to consider how far they will make use of their Testimony at advising the Sufficiency of the Probation.

How Witnesses are to be Sworn, Examined and Subscribe. And the Initialia Testimonii.

§ 16. Witnesses are to be sworn thus, Lifting and holding up the Right Hand; They swear by God, and as they shall answer to Him, they shall tell the Truth, and nothing but the Truth, concerning the Articles and Points of the present Process, in so far as they know, or shall be asked. Which Oath the Moderator is Judicially to Administer, and tho' there be no Relevant Objection against the Witnesses, yet they are to be solemnly purged of Malice, Bribe, or Good Deed, done or to be done, and of partial Counsel, by which some understand Prompting or Consulting for making of the Process. The Witnesses are to be Sworn and Examined in presence of the accused Party, if compearing, and he may desire the Moderator to propose such Questions, or cross Questions, to the Witnesses, as may tend to his Exculpation, which if the Judicatory think pertinent, are to be proposed. The *Initialia Testimoniorum*, such as, their Age, Married, or Un-married, or *Soluti*, that is, Widows, and the like, are proposed, that the Deponents Veracity may by these be traced. If Witnesses cannot subscribe their Names to their Deposition, the Clerk

is to Mark, that they declare, they cannot Write, and the Moderator is always to ſubſcribe the ſame, whether they can Write or not. If they can but ſubſcribe the Initial Letters of their Names, they ſhould do it, and the Clerk is to write about their Mark thus (*Adam A. B. Bruce* his Mark.)

Singularity of Witneſſes, What.

§ 17. A ſingular Witneſs is one that hath no concurring Witneſs. This Singularity is either, *Obſtativa*, which is, in a Crime, not Reiterable; As if one ſhould depone, that a Man was Murdered at one place, and another depone he was Murdered at another place. Again, there is a *Singularitas Adminiculativa*, which is, where the Witneſſes do not concur in their Depoſitions; Yet they are not Contrary, but the one aſſiſts the other, as in the proving that an Horſe was ſtolen, one ſhould depone that he ſaw the Thief go in without a Horſe, and another ſaw him take the Horſe. In the third place, there is a *Singularitas Diverſificativa*, when Witneſſes depone different Acts in a Crime, which is Reiterable; As if one Witneſs depone upon an Adultery, committed at one time, and another of an Adultery committed at another time. Is that perſon's being guilty of Adultery ſufficiently proven?

Probation by Notoriety, and if Judges may be Witneſſes.

§ 18. Of Things Nottour, there are ſome which cannot be proven, and yet are true, as ſuch a Man is another's Son: Other Things can be proven which are *facti permanentis*, Such as, that there is a Palace or Fountain in ſuch a Town, *ſed notorium non indiget probatione*. Again, there are Things nottour, which need no Probation, which are *facti tranſeuntis*, as that ſuch a perſon did publickly committ Murder. Albeit Judges cannot be both Judges and Witneſſes, yet, he is a Witneſs & a Judge too of what he ſees and hears in Judgment, for theſe are counted as Nottour, *vide* Stair's *Inſtit. pag.* 704.

§ 19. It

§ 19. It is Repugnant to the Laws of GOD and Man, to Condemn any that is Abſent or Unheard, unleſs his Abſence proceed from his own Fraud or Stubbornneſs: Therefore in order to a due Hearing, Citations muſt be given to Parties concerned, in Writing, eſpecially if they be called before Presbyteries, and other Superiour Judicatories of the Church. See the 2. *Cap.* of the forecited Act of Aſſembly. The Citation muſt bear, 1. The Judicatory before which the perſon cited is to appear. 2. The Name of the Purſuer, (if the Party be not cited by order of the Judicatory) 3. The Name of the Defender. 4. The Cauſe for which the perſon is cited. 5. The Place where Compearance muſt be made. And laſtly, the Time when they muſt compear. And this is to be obſerved, That all Parties and Witneſſes cited before Church Courts, are to be deſigned in theſe Citations, as they are or may be commonly in all other Writes. If they be Reſiding within the Pariſh, they may be cited upon Fourty Eighth Hours Advertiſement. *How Parties are duly ſiſted before a Church Judicatory, and the* Requiſita Citationis.

§ 20. It hath ſometimes been practiſed, to Cite Parties even when out of the Countrey, a particular inſtance whereof is, the Commiſſion of Aſſembly 1644, cauſed Cite ſome *Scots*, then about *Oxford* in *England*, (for Emitting a Malignant Declaration) at the Market-Croſs of *Edinburgh*, Peer and Shoar of *Leith*, to appear before the then next enſuing General Aſſembly, upon ſixty Days warning, counting from the day of the Citation. *Parties out of the Countrey how cited.*

§ 21. If the perſons be charged with Scandal, who live within the Bounds of another Pariſh, the Kirk Seſſion of that Pariſh where that perſon Reſides, ſhould be deſired to cauſe Cite them to anſwer before the Seſſion in whoſe Bounds the Scandal happened, and the ſame courſe is to be followed in ſuch caſes by the other Judicatories of the Church. *Parties in another Pariſh how Cited.*

§ 22.

Citations Dilatory and peremptory, how to proceed with those who disobey or abscond.

§ 22. Citations are called Dilatory for the First and Second, that the Party may appear; and the Third, or one given *Apud acta*, is called Peremptory, wherein the Judicatory certifies the person cited, that they will proceed to the Cognition of the Cause, though he appear not, or that they will proceed against him as Contumacious. If the person do not compear upon this peremptory Citation and no relevant Excuse therefore be proposed and sustained, the Judicatory is to proceed to take Cognition, either by Examining of Witnesses, or by other Documents, for the Verity of the Scandal, and that before they censure him for Contumacy. See *Cap.* 2. *Sect.* 6. of the forecited Act. If any under Process for Scandal, Abscond, they should be Cited first from the Pulpit of the Parish where the Process depends, and where they Reside, and if they do not thereupon appear, they are next, by order of the Presbytery to be Cited from the Pulpits of all the Kirks within their Bounds, to compear before them, and if they do not then appear, they are to be declared Fugitives from Church Discipline in all the Kirks within that Bounds, desiring that if any know of the said Fugitives, they may give Notice thereof, and the Presbytery is to sist the e, until they get some further account of these persons. See § 18. of the forecited *Chap.* and Act. This Citation is commonly called *Edictal*, and likewise takes place when the person to be Cited takes Methods to hinder a Copy to be given in the usual way, or, when it is dangerous for the Officer to Travel to that place.

Stile of Summonds and of the Copy and Execution thereof, and of Caution to appear.

§ 23. Sometimes the Warrant for Citing bears the Libel, and then a full Copy thereof is given, but sometimes it bears not the Libel, and then the Defender is cited to hear and see the Informations against him, and must, when appearing, be Treated as in § 2. *Huj. Tit.* The Form of which Summonds may run thus, Mr. *A. B.* Minister and remanent

'remanent Members of the Church Session of To
' our Officer, We require you, that upon sight
'hereof, ye pass and lawfully Summond per-
'sonally, or at his Dwelling-house, to compear before the
'said Session, within the Session-House at the
' Day of next to come, in the Hour of
'Cause, to answer to the Information or Libel against him,
'for the Sin and Scandal of laid to his charge:
'with Certification, *&c.* Given at the
'Day of by warrant of the said *Session*, A. B. *Sess.*
'*Cls.* Beside the General Certification of the Church Censures, which is the Method Ecclesiastick Courts do take, to procure Obedience to their Orders; There are some proper Certifications, as in Transportation of Ministers, and their Edicts of Ordination and Admission, of which already in *Book* 1. Now the Copy of a Summonds may run thus, "I Church Officer of by virtue
'of an Order directed from them lawfully Summonds
'you to compear, *&c.* With Certification, *&c.*
'conform to the principal Warrant dated at the
' Day of ; This by Warrant of the said
'Session I give, before these Witnesses, *&c.* *A. B.* Officer.
He is to return the Summonds Execute in these Terms, *viz.*
"Upon the Day of I Church Officer of
' past at the Command of the within written Or-
'der directed from the Church Session of , and by
'virtue thereof lawfully Summoned the within mentioned
' , personally Apprehended, and delivered to him
'a true Copy of the said Warrant, to compear before the
'said Session, Day and Place within specified, to Answer
'for the Sin and Scandal of laid to his charge,
'and made Certification as is within Expreſt. This I did
'conform to the within written Warrant in all points;
'Before these Witnesses, *A. B. &c.* And for the more Verification

'rification hereof, we have ſubſcribed thir Preſents at ' , the Day of, &c. The Execution muſt bear, that either Citation was given to the Party perſonally, as above, or left at his Dwelling-houſe, with his Wife, Bairns, or Servants, if the Officer get Entry, or by Affixing a Copy on the Door, after knocking ſeveral Times if he get not Entry. If any Man bind as Cautioner for another that he ſhall underly the Diſcipline of the Church, under a pecunial pain for the uſe of the Poor, he ſhould bind to the Magiſtrate, and not to the Church.

All Defenders muſt appear perſonally, even tho' Minors, and how Societies appear.

§ 24. When Minors are conveened before Church Judicatories, their Curators are not to be cited as before Civil Courts, tho' they may be acquainted therewith, that their Pupils may receive ſuitable Advice & Inſtruction from them. A Minor that is a Male paſt Fourteen, and a Female paſt Twelve Years of Age, may be called before Church Judicatories, when guilty, as for Pupils under that Age, it will be rare if ever they be concerned as Delinquents, except *ubi malitia ſupplet ætatem*, That is, where ſtrength of Nature is as far advanced in them as it uſeth to be in others of riper years. The concluſion of all Church Proceſs, being againſt the Defenders themſelves, none can appear for them: Nay, Advocates are not ſo much as allowed to plead for compearing Parties, otherwiſe Pleas would probably be more frequent and tedious too; and the Truth hath been many times Expiſcate by the Countenance, Behaviour, or Expreſſions of Parties themſelves, which would have been concealed by Advocates. In the M. S. Acts of Aſſembly at *Edinburgh* 1575, they refuſe to allow Advocates to plead before them in a Proceſs of Dilapidation, againſt the Biſhop of *Dunkelden*, but ordains him to Anſwer himſelf, and if he think fit may chooſe any Miniſter to Reaſon for him. When Incorporations are Cited, it is neceſſary they be allowed to Anſwer by ſome Commiſſioned from their Body, who muſt be Members of that Society,

or Reside therein: If a Burgh Royal were Cited, they would not be allowed to appear by him who Resides not among them, but only is one of their Honorary Burgesses: and no Party sustains great loss hereby, seing they may Advise with whom they please in Drawing of Answers, and the like.

TITLE IV.

Of the vocational and personal Faults of Ministers and Probationers, how they are Censured, and of the Method of proceeding to Censure, and of Reponing them against these Censures.

§ 1. BY the 132 *Cap. Parl.* 8. *Jac.* 6. Non-residence is declared to be, when a Minister Resides not within the Parish, but is absent therefrom, and from his Kirk, and using of his Office, for the space of four Sabbath Days in the Year, without a lawful Cause allowed by the Presbytery; which Nonresidence is Deprivation. By parity of Reason the same pain may be applyed against Principals & Masters of Universities, who attend not upon their Charges. The Ministry is said to be *Militia spiritualis*, they are Watch-men fixed by their Superiours as Sentinels at such Posts, which if they *D*esert without Warrant, all the Order of the Spiritual Discipline is overturned. Agreeable hereunto is the Act of Assembly 1596, Ratified by Assembly 1638, whereby it is Appointed, That Ministers not Resident with their Flocks be Deposed, according to the Acts of the General Assembly, and Laws of this Realm, otherwise the Burden is to ly on the Presbytery, and they to be Censured for the same.

Non-residence what, and how Censured. who are Deserters, and how Censured, and Defences against the same.

And by the 5. *Art.* of the ſame Act, It is appointed conform to the old Acts of Aſſemblies therein mentioned, that Miniſters Reſide in their own Pariſhes or at their ordinary Manſes. By the 4 *Cap.* of the Policy of the Kirk, they who are once called of GOD, and duly Elected by Man, and have once accepted the Charge of the Miniſtry, may not leave their Functions, otherwiſe the Deſerters are to be Admoniſhed, and in caſe of Obſtinacy Excommunicated. And by the M. S. Acts of Aſſembly at *Edinburgh*, 1570. It is appointed that Miniſters at their publick Inſtalment, ſhall promiſe ſolemnly never to leave their Miniſtry at any time thereafter, under the pain of Infamy and Perjury. Conform hereunto, in the 1 *Cap. Art* 14. of the *French Church Diſcipline*, Miniſters with their Families, muſt actually Reſide in their Pariſhes, under pain of Depoſition; and by the 23. *Art.* Deſerters of the Miniſtry ſhall be Excommunicated, if they do not repent, and reaſſume the Office GOD hath committed unto them. By the Aſſembly 1690, *Seſſ.* 15. Albeit Miniſters have received their Ordination from Foreign Churches, yet if they have a ſtanding Relation to any Charge in this Church, they are not to remove out of the Kingdom, without conſent of the reſpective Judicatories of this Church, otherwiſe they may be Treated as Deſerters, *vid.* Ordination Engagements, *Lib.* 1. If perſecution be particular againſt one Miniſter, in that caſe, it is generally thought, he may warrantably Flee, without being eſteemed a Deſerter: But it will ſcarcely defend againſt Deſertion, when the Perſecution becomes general. A Miniſter ſeems to be particularly Tied to wait upon his Charge in the Time of a publick Calamity: And therefore the Commiſſion 16 *May* 1645, found that Mr. *Mungo Law* Miniſter at *Edinburgh*, could not be ſpared from his Charge, to attend the General's Regiment, in reſpect of the fear of the Infection in the City.

§ 2.

§ 2. Supine Negligence is, an habitual or cuſtomary Neglect of ſome one or other of the Paſtoral Duties, but every Eſcape cannot infer it, the Paſtoral Office being in ſome ſenſe a Burden too heavy for the ſhoulders of Angels. By our Law, Supine Negligence is Relevant to infer Depoſition, even as Error, Scandal, Ignorance and Contumacy are, ſee the Act of *Parl.* 1690, ſettling the Church Government: And by the forecited Act of Aſſemb. 1596. It is appointed, That ſuch Miniſters as be ſloathful in the Miniſtration of the Sacrament of the LORD's Supper, be ſharply Rebuked, and if they continue therein: that they be Depoſed. And by the Act of Aſſembly *June* 13, 1646. Among the Enormities and Corruptions of the Miniſterial Calling, the following is mentioned, *viz.* Idleneſs, That is, ſeldom Preaching, as once on the LORD's Day, or in preparation for publick Duties, not being given to Reading and Meditation, but only now and then, not like other Tradeſmen, continually at their Work.

Supine Negligence what and how Cenſured.

§ 3. Dilapidation of Benefices is, the Deed of any Church-man, whereby his Rents are Waſted, Diminiſhed, or Altered to the worſe from what they were. And the puniſhment is, Diſannulling of the Deed, and Deprivation to the Granter, *Jac. 6. Parl. 7. Cap* 101. By that forecited Act of Aſſembly 1596. It is declared that Delapidation of Benefices, demitting of them for Favour or Money, without Advice of the Kirk; Interchanging of Benefices, by Tranſaction, or Tranſporting of themſelves by that occaſion, without Advice of the Kirk, are preciſely to be puniſhed. Suchlike, ſetting of Tacks without conſent of the Aſſembly, is to be puniſhed as Dilapidation.

Dilapidation what, and how Cenſurable.

§ 4. Simony is the Buying or Selling of any Spiritual Thing, or of what is Annexed thereto, The Canoniſts deſcribe it to be, *Studioſa voluntas, ſeu cupiditas emendi vel vendendi ſpiritualia, vel ſpiritualibus annexa.* Thus Simony may be committed by making advantage of Adminiſtrat-

Simony what, and how proven and puniſhed.

ing the Sacraments: By *Jac. 6. Parl.* 21. *Act* 1. Any Condition made by the Intrant with the Patron, reserving to himself a sufficient Maintenance answerable to the state of the Benefice, is declared not to be Simony. In this Crime, Witnesses who are not very *habile*, or *omni exceptione majores*, such as Whores and Infamous persons, may be admitted, and it may be proven by presumption or Oath of Party, according to the Opinion of some Lawyers, and all becauſe it is ordinarily carried on with much privacy and clandestine dealing. *Ambitus* is *Crimen mere Eccleſiaſticum*, and not usually punished by Laicks. By the forecited Act of Assembly 1596. It is provided, that none seek Presentations to Benefices, without Advice of the Presbytery, and if any do in the contrary, they are to be Repelled as *rei ambitus*. They further appoint that it be Enquired, if any by Soliſtation or Moyen, directly or indirectly, press to enter into the Miniſtry; And if it be found, the person so Solliciting, is to be Repelled; These three Crimes, *Dilapidation*, *Simony*, and *Ambitus*, do often meet in one and the same person, and the Crime is Denominate from that which most predomines in it.

Ambitus what, and how Censured.

Intruders and Vagrant Miniſters who, and how Censured.

§ 5. By the 23*d* Act of Assembly 1696, It is Recommended to all Synods and Presbyteries, that they advert to the many Irregularities committed by vagrant unfixed Miniſters: and Presbyteries, where any Difficulties occurr, are to consult their Synods before they proceed to Censure. By the 27*th* Act of that Assembly, they suspend one from the Exercise of his Miniſtery, becauſe he exerciſed it in a vagrant disorderly way. And By the 18*th* Act of Assembly 1701. Presbyteries are appointed to send in to the Commiſſion an Account of such Miniſters, or Preachers, as Intrude into Parishes, that Application may be made to the Government for Removing them, that the Kirks Intruded into may be orderly planted. *Assemb.* 1694. *Seſſ.* 14. The Queen by Her Proclamation dated at *Windsor*, *September*

† 20.

20. 1708. In purſuance of ſeveral Acts of Parliament made in favours of the preſent Church Eſtabliſhment, particularly the Act 1695. againſt Intruders, doth Require and Command, all ſuch as have Intruded upon Churches or Manſes, to remove therefrom, and all Magiſtrates and Judges within their reſpective Juriſdictions, are to ſee the ſame executed, by decerning accordingly, and procuring Letters of Horning and Caption thereupon to be direct *in communi forma.* By the Diſcipline of the *French* Church, *Cap.* 1. *Art.* 26. The Miniſter that ſhall Intrude himſelf, although he were Approved by the People, is not to be Approved by the Neighbouring Miniſters or others, but notice muſt be given to the Colloquy thereof, or Provincial Synod. And by the 55 *Article* of that *Chapter*, the Names of vagrant Miniſters are to be proclaimed through all the Churches.

Vocational Faults of Miniſters; How Cenſured.

§ 6. By the foreſaid Act of Aſſembly 1596. Ratifyed 1638. It is Enacted, that ſuch Miniſters as ſhall be found not given to their Books and Study of the Scripture, not given to Sanctification and Prayer, that Studies not to be Powerful and Spiritual, not applying the Doctrines againſt Corruptions, which is the Paſtoral Work, Obſcure and too Scholaſtick before the People, Cold and Wanting in Spiritual Zeal, Negligent in viſiting the Sick, or Caring for the Poor, or Indiſcreet in chooſing Parts of the Word not meeteſt for the Flock, Flatterers and Diſſembling of publick Sins, and ſpecially of great Perſonages in their Congregations; All ſuch Miniſters are to be Cenſured according to the Degree of their Fault, and continuing therein are to be Deprived. *Item*, Such as be ſloathful in the Miniſtration of the Sacraments, and Irreverent, or Profaners thereof, by admitting the Ignorant or Profane thereto, and omitting the due Tryal of ſuch as are to be admitted, or uſing but light Tryal, or having Reſpect in their Tryal to perſons. All ſuch Miniſters are to be ſharply Rebuked, and if they continue

tinue therein, are to be Depoſed. *Item*, But if any Miniſter be found a Seller of the Sacraments, he is to be Depoſed *Simpliciter*: And ſuch as Collude with Scandalous Perſons, by Overlooking them for Money, do Incurr the like Puniſhment. *Item*, All Miniſters, who neglect the due Exerciſe of Diſcipline, and continue therein after Admonition, are to be Depoſed.

Perſonal Faults of Miniſters; How Conſured.

§ 7. By the forecited Act 1596, It is Appointed, that ſuch Miniſters as are Light and Wanton in their Behaviour, as in Gorgeous and Light Apparrel, or in Speech, or in uſing light and profane Company, or that are guilty of Dancing, Carding, Diceing, and the like, if they continue therein after due Admonition, ſhall be depoſed as Scandalous to the Goſpel; And agreeable hereto is the 54 *Canon* Concilii Laodiceni, *Quod non oportet ſacratos, vel Clericos in nuptiis vel Conviviis aliqua ſpectacula contemplari, ſed priuſquam Ingrediantur Thymelici, ſurgere & ſecedere debeant.* *Item*, Miniſters found to be Swearers or Banners, Profaners of the Sabbath, Drunkards or Fighters, are to be depoſed *ſimpliciter*. By the 27 and 42 of theſe *Canons*, called Apoſtolical, *Epiſcopum, vel Presbyterum, vel Diaconum verberantem fideles peccantes, aut Infideles injuriam facientes, ac per hoc timeri volentem, ab officio Deponi Mandamus.* And by the other *Canon*, *Epiſcopus, Preſbyter, aut Diaconus, aleæ vacans, aut Ebrietatibus, vel Deſiſtat, vel Gradu ſuo dejiciatur.* *Item*, Miniſters that are Detractors, Flatterers, Breakers of Promiſe, Lyars, Brawlers, and Quarrelers, after Admonition, if they continue therein, they are to be Depoſed. By the 53 *Canon*, called Apoſtolical, *Si quis Clericus in Caupona comedens deprehenſus fuerit, a Communionis ſodalitate ſecernatur, præter eum qui vitæ neceſſitate divertit in hoſpitium.* And by the 55 *Canon* Concilii Laodiceni, *Quod non oportet Sacratos vel Clericos, ex collatione, convivia peragere, ſed neque Laicos.* And by the 43 *Canon*, Concil. Carthagi-

nen.

nen. *Ne in Caupona verſentur Clerici, niſi hoſpitio accepti. Ut Clerici comedendi, vel bibendi gratia, non ingrediantur, niſi hoſpitii neceſſitate compulſi.* By our Law, (*vid. Tit.* 13. *Lib.* 3.) the haunting of Taverns at unſeaſonable Hours therein condeſcended upon, is equally puniſhable with Drunkenneſs. So that a Miniſter's drinking Temperately in Change-houſes, tho with good Company (but at forbidden Hours) will not defend him againſt the puniſhment of Drunkenneſs. *Item*, Miniſters are not to take Uſury, and if they continue therein, they are to be deprived. By the 44 of theſe *Canons* called *Apoſtolical*, *Epiſcopus, aut Presbyter, aut Diaconus, Uſuras exigens a Debitoribus, vel deſiſtat, vel ordine mulctator.* *Item*, Miniſters given to unlawful Trades and Occupations, for filthy Gain, ſuch as, keeping of Inns, bearing of Worldly Offices in Noblemen and Gentlemen's Houſes, Merchandiſe, and ſuch like, buying of Victual, and keeping it to the Dearth, and all ſuch Worldly Occupations, as may diſtract them from their Charge: All ſuch are to be admoniſhed, and if they continue therein, are to be depoſed. By the *6th* of theſe Apoſtolical Canons, *Epiſcopus, aut Presbyter, aut Diaconus ſeculares curas non adſumat, alioqui deponatur.* And by the *20th* Canon, *Clericus ſe fideijuſſionibus implicans gradu ſuo dejiciatur.* *Calderwood*, in his Hiſtory *pag.* 438. acquaints us, That by Acts of Aſſembly Miniſters are prohibite to joyn with their Miniſtery, the Office of a Nottar, Husbandry, or Hoſtilary, *&c.* under the pain of Depoſition. In the M. S. Acts of Aſſembly 1572. The Regent deſiring ſome Learned Miniſters to be planted Senators of the Colledge of Juſtice, the Aſſembly finds that none were able to bear both the ſaid Charges. The Aſſembly 1643. (in the Index of their unprinted Acts you may find ſome of it) conſidering that Mr. *William Bennet* Miniſter at *Ancrum* did vote in the Election of a Commiſſioner to the Convention of Eſtates from the Shire of *Roxburgh*, as

one

one of the Barons and Free-holders there, they do Recommend it to him to abſtain from Civil Courts and Meetings. As alſo, they underſtanding, that Mr. *Andrew Murray* Miniſter at *Ebde*, had come to ſucceed to be Lord *Balvaird*, they appoint him to exerciſe his Calling of the Miniſtery, and to Reject ſuch Temporal Honours during his own Life, as being Incompatible with that Calling, and very good Reaſon that the Leſſer and leaſt Uſeful ſhould cede to the Greater and Better Work. *Item*, By that forecited Aſſembly Act 1596. Ratifyed by the Aſſembly 1638. All their Members are diſcharged from attending the Court, and Affairs thereof, without the Advice and Allowance of their Presbytery: And that they intent no Civil Action without the ſaid Advice, except in ſmall Matters. *Calderwood* in his Hiſtory of Aſſembly 1600. ſaith to this Purpoſe, *Qui ambulat in ſole coloratur, qui tangit picem inquinatur, qui frequentat Aulam & Curiam profanatur*; *Forum pontificis* Petrum *ad abnegationem Chriſti adegit quæ eſt corporum conſtitutio, ea eſt & morum, Circumpoſito aere calido caleſcimus, & rurſus frigido frigeſcimus. Cum ſanctis ſanctus eris, cum perverſis perverteris. Item*, Miniſters are to uſe Godly Exerciſes in their Families, ſuch as, Teaching of their Wives, Children and Servants, in ordering Prayers, Reading of the Scriptures, and ſuch like other Points of Godly Converſation: Whoever be found negligent therein, after due Admonition, are to be depoſed. *Item*, Miniſters that are not Spiritual, and Profitable in their ordinary converſe, are, upon due Tryal, to be ſharply Rebuked. *Item*, No Miniſter is to countenance or aſſiſt a publick Offender, challenged by his own Miniſter for his publick Offence, or to bear with him, as if his own Miniſter were too ſevere upon him, under pain of Admonition and Rebuke.

§ 8. The

§ 8. The General Assembly by their Act 13 *June* 1646, provide the following Remedies, against the Evils both in the Calling and Lives of Ministers, and appoints them to be observed. *Imprimis*, None are to be taken in to be a Helper or second Minister, but such as are able for the same Charge. *Item*, That Presbyteries be Faithful in the Tryal of Intrants, and in loving Admonitions one of another secretly, and that Absents from Synods and Presbyteries be censured. *Item*, The Moderators of Presbyteries, are to see that Godly Conference be entertained at Presbyterial Meetings, even in time of their Refreshments. *Item*, Ministers are to have more frequent Converse among themselves, for Strengthening one anothers Hands, and Begetting and Cherishing of Friendship, and Removing of Misconstructions. *Item*, Ministers are to cherish weak Beginnings in the Ways of God, and Couragiously oppose all Revilers and Mockers of the Godly. *Item*, Silence or ambiguous Speaking in the publick Cause, and not Speaking against the Corruptions of the Time, are to be seasonably censured; And such as Mock, Upbraid, or Threaten, Stop or Disturb Ministers for Freedom in Preaching, and the Faithful Discharge of their Conscience, are to be processed, *vide Assemb.* 1648. *Sess.* 26.

Remedies against Vocational and Personal Faults of Ministers.

§ 9. A Presbytery is not to proceed to the Citation of a Minister, or any way begin the Process, until there be first some Person, who under his Hand gives in the Complaint, with some account of its Probability, and undertakes to make out the Libel, at least under pain of being Censured as a Slanderer. This Informer or Accuser ought to be of good Report; for it were of dangerous Consequence to admitt every Body to accuse. By the 21. Canon, *Concilii Chalced. Clericos vel Laicos, Episcopos aut Laicos Accusantes, non indiscriminatim, nec citra Inquisitionem, admittere ad Accusationem, nisi eorum existimatio primo examinata fuerit.* Yet Presbyteries may proceed against Ministers, when a *Fama*

What warrands a Presbytery to enter in Process against a Minister: And how Accusers are to be admitted.

Clamosa of the Scandal is so great, that for their own Vindication, they find themselves obliged to begin the Process without any particular Accuser, after they have Inquired into the Rise, Occasion, Broachers and Grounds of the said common Fame.

The Manner of citing Ministers.

§ 10. After the Presbytery has considered the Libel raised against the Minister, then they order him to be cited to get a full Copy, with a List of the Witnesses Names to be led for proving thereof, and a formal Citation is to be made in Writ, either Personally or at his Dwelling House, bearing a competent time allowed to give in Answers unto the Libel, and his just Defences and Objections against Witnesses, at least ten free Days before the Day of Compearance, and the Citation should bear the Date when given, and the Names of the Witnesses to the giving thereof, and the Execution bearing its Date, with the Names and Designations of the Witnesses, should be made in Writ and signed by the Officer and Witnesses: Which being accordingly Returned, he is to be called. As to the Form and Manner of Citations, it is not to be understood as a Privilege restricted to Ministers only, but it is to be Extended to all who are conveened before Church Judicatories, with little Difference, as has been observed on *Tit. Citations.*

How to behave towards a Minister Compearing and Confessing.

§ 11. If the Minister compear, the Libel is to be read unto him, and his Answers thereunto are to be read, in order to the discussing of the Relevancy. If the Libel be found Relevant, then the Presbytery is to endeavour to bring him to a Confession: If the Matter confessed be of a Scandalous Nature, such as Uncleanness, or the like, the Presbytery, whatever be the Nature of his Penitence, are *Instanter* to depose him *ab officio*, and to appoint him in due time to appear before the Congregation where the Scandal was given, and in his own Parish, for removing the Offence, by the publick Profession of his Repentance.

§ 12. If

§ 12. If a Minister absent himself by leaving the Place, and be Contumacious, without making any relevant Excuse, after a new publick Citation, and Intimation made at his own Church, when the Congregation is met, he is to be holden as Confest, and to be Deposed and Censured *Instanter* with the lesser Excommunication; But if after some time he do not subject himself to the Censures of the Church, he may be proceeded against till he be Censured with the Greater Excommunication. *How towards one Absenting or Contumacious.*

§ 13. If the Minister accused do appear, and deny the Fact, after the Relevancy is found, the Accused is to be heard Object against the Witnesses, and allowed to be present at the Examination, and modestly to Cross-Interrogate. If after consideration of the Reputation, Hability, and Depositions of the Witnesses, the Judicatory shall find the Scandal sufficiently proven, they are to proceed to Censure, as in the Case of Confession. *How towards him who compears, and denys, but against whom the Libel is proven.*

§ 14. If the Errors be not Gross, and striking at the Vitals of Religion, or if they be not pertinaciously stuck unto, or industriously spread, with a visible Design to Corrupt, or that the Errors are not spreading among the People, then Lenitives, Admonitions, Instructions, and frequent Conferences are to be tryed in order to Reclaim. And unless the thing be doing much hurt, so as it admitts of no Delay, the Synod or General Assembly are to be advised with, and the Reference Intimated to the Minister concerned, which is agreeable to the 12*th* Act of Assembly 1694. And by that Act all the Judicatories of the Church are forbidden to Censure any Minister whatsoever for not Qualifying themselves in the Terms of the Act of Parliament, by taking the Oaths to the Civil Government. 'Tis true, that Appointment continues only till the next Assembly; But the same Reason for making that Temporary, may make it a perpetual Act. *How to carry towards a Minister charged with Errors.*

How to carry towards a Minister charged with a multitude of smaller things laid together.

§ 15. If the Libel against a Minister be for a multitude of smaller things laid together, the Presbytery in proceeding therein are to make a Presbyterial Visitation of that Ministers Parish. And if they find these things, laid to his Charge, to have been committed since the last Visitation, or find a satisfying Reason wherefore they were not then Tabled, they are to Inquire how far the Minister hath been guilty of giving Offence, after he was acquainted that Offence had been taken at these things he is charged with: It would be likewise Inquired, If any of the Complainers did first in a private Way Inform any of the Neighbouring Ministers of these things now publickly complained of? And the Presbytery is to Judge accordingly. If they find upon Tryal, the Complaint to Resolve on the Minister's having committed such Acts of Infirmity or Passion; As, considering all the Circumstances, may be either amended, and the People satisfyed, and that the Offence was taken by the Ministers own People, only or mainly, then the Presbytery is to take all prudent Ways to satisfy and reclaim both Minister and People.

Absence from Synods Censured by Suspension, and why so called.

§ 16. By the *4th Act, Sess. 2d. Par. 1st. Car. 2d.* Ministers are to be Suspended that absent from the *Diocesan* Synod for the first Fault, and that such a Censure may be Inflicted where no Excuse is offered is not to be doubted. Yet our Church-Judicatories are rather Inclinable to Threaten, and be in a Readiness to Revenge every Disobedience, than actually to Inflict the Censures they may, upon every just Provocation. Ministers are said to be Suspended, because their Restoring or Deposing is yet doubtful, and doth much depend upon their future Behaviour, or upon further Discoveries and clearer Probation.

Grounds of Deposition; Who.

§ 17. By the General Assembly *April* 1582, as related in *Calderwood*'s History, the Causes of Deposition were judged to be these, *viz.* Heresy, Popery, Blasphemy, Perjury, Adultery, Incest, Fornication, Slaughter, Theft, Common

mon Oppreſſion, Common Drunkenneſs, Uſury againſt the Laws of the Realm, Non-Reſidence, Abſence from his Kirk, and Neglect of his Office for Fourty Days together in a Year, without a lawful Impediment allowed by the next General Aſſembly; Plurality of Benefices (but the Act of Parliament ſays, Plurality of Benefices having Cure) Dilapidation thereof, and Simony. Which Crimes are likewiſe declared Cauſes of Deprivation, by *Cap.* 132. of *Parl.* 1584. It is to be obſerved that the Church doth not except in ſome moſt horrid Crimes, *D*epoſe and Excommunicate both at once. By the 25*th.* of the *Canons*, called *Apoſtolical*, *Epiſcopus, aut Presbyter aut Diaconus in ſcortatione, vel perjurio, vel furto deprehenſus, ordine ſuo ſummoveatur; ab Eccleſia tamen non excludatur.* Miniſters are not to imploy Depoſed Miniſters in any Exerciſe of the Paſtoral Calling, or entertain Miniſterial Communion with them, under pain of Depoſition. By the 11*th.* of theſe forecited Canons, *Si quis Clericus cum depoſito, ut cum Clerico, ſimul oraverit, deponatur & ipſe.* If any Depoſed Miniſter ſhall Apply to the Civil Magiſtrate for Redreſs againſt that Sentence, in ſo doing he acknowledgeth in the Civil Magiſtrate a privative Power, to hinder the Church from Exerciſing that Juriſdiction ſhe hath received from CHRIST, and therefore he puts himſelf out of all hopes of almoſt ever being reſtored. By the 12*th.* Canon *Concil. Antiocheni, ſi quis a proprio Epiſcopo depoſitus, Presbyter vel Diaconus, vel Epiſcopus a Synodo, auſus fuit, Imperatoris auribus moleſtiam exhibere, cum oporteat ad majorem ſynodum converti, & jus quod ſe habere putat ad plures Epiſcopos referre, eorumque Examinationem & judicium ſuſcipere: qui itaque his contemptis Imperatori moleſtus fuerit, is nulla venia dignus, neque ſui defendendi locum habeat, nec Reſtitutionis futuræ ſpem expectet.*

Excommunication and Depoſition rarely in one Sentence.

No Miniſterial Communion with Depoſed Miniſters.

A Depoſed Miniſter applying to the Civil Magiſtrate for Repoſition, not to be Reſtored.

§ 18. By Deprivation a Miniſter is removed only from his particular Charge, and loſeth the Benefice, as was done againſt

Difference between Deprivation, Depoſition, and Degradation.

againſt the Miniſters of *Linlithgow* and *Bathgate*, by the Synod of *Lothian* in *May* 1660, but Inſtances of this kind are rare. By Depoſition a Miniſter is Depoſed *ſimpliciter* from both Office and Benefice: This Church doth not make that Diſtinction, which the Canoniſts do, betwixt Depoſition and *D*egradation: for they ſay, that *D*epoſition is pronounced verbally, by his Superiors removing him from his Office, but in Degradation, the Enſigns and Veſtments of the ſeveral Degrees of Orders he had been Inveſted with, are pulled off him, and thereafter his Perſon is delivered to the Civil Magiſtrate, to be puniſhed for his Crimes.

Prayer before Depoſition or Repoſition.

§ 19. The Cuſtom of this Church is, That when they enter upon a Proceſs of *D*epoſition, the Name of GOD is ſolemnly called upon for Light and Direction. Solemn Prayer is likewiſe made before they enter upon the Grounds for Reponing of depoſed Miniſters. The Act of Depoſitions runs in this or the like Form. "At The which

And the Form of Acts of Depoſition & Suſpenſion.

'day anent the *S*ummonds and Complaint purſued before 'the Presbytery of at the inſtance of againſt 'Miniſter at mentioning, *&c.* And 'anent the Citation, *&c.* to have compeared, *&c.* to have 'Anſwered to the ſaid Complaint given in againſt him, 'and the ſamen being proven, to have heard an Sentence 'of Depoſition, or ſuch other Cenſure given and pronoun-'ced againſt him, by Authority of the ſaid Presbytery, as 'he ſhould be found to deſerve, conform to the Acts and 'Practice of this Church, obſerved in the like caſes, or elſe 'to have alledged an reaſonable Cauſe in the contrair, with 'Certification, if he failzied, the ſaid Presbytery would 'proceed, and do therein as they ſhould find juſt. Which 'Summonds being oft and divers times called, *&c.* Pur-'ſuers preſent and compearing, the ſaid *D*efender 'abſent. The ſaid Presbytery having conſidered the Ar-'ticles of the ſaid Summonds and Complaint; and being well

'well and ripely Adviſed therewith, they found the ſame re-
'levant by the Acts and Practice of this Church to infer
'Depoſition; As alſo, they found the Articles of the ſaid
'Complaint ſufficiently proven, by the Depoſitions of ſe-
'veral famous Witneſſes, lawfully Summoned, ſolemnly
'Sworn, purged and Interrogate thereupon. That *&c.*
'(here Narrate the particular things found proven) as
'the Depoſitions of the ſaids Witneſſes Extant in Proceſs,
'bear. And therefore the ſaid Presbytery did by their
'Vote, Depoſe the ſaid Likeas they hereby do,
'in the Name of the LORD JESUS CHRIST, the alone
'King and Head of his Church, and by virtue of the
'Power and Authority committed by Him to them, actual-
'ly Depoſe the ſaid from the Office of the Holy
'Miniſtry, Prohibiting and Diſcharging him to Exerciſe
'the ſame, or any part thereof in all time coming, under the
'pain of the higheſt Cenſures of the Church. Extracted *&c.*
The Sentence of Suſpenſion runs in this Form, "They
'do Suſpend the ſaid from the Exerciſe of his
'Miniſtry till a definite Time, prohibiting him to Exerciſe
'the ſame during the ſaid ſpace, till he be orderly Re-
'poned thereto, under the pain of Depoſition. The As-
ſembly *Auguſt* 5. 1648. conſidering that according to the
Antient Order and Practice of this Kirk, the Cenſures of
Suſpenſion and *Depoſition* are both *ab Officio & Beneficio*,
therefore they diſcharge Depoſed or Suſpended Miniſters,
to Exerce any part of the Miniſterial Calling, or intromet
with the Stipend, under pain of Excommunication to the
Depoſed Miniſter, and of Depoſition to the Suſpended.
See alſo Act of Aſſemb. *Dec.* 18. 1638. *Seſſ.* 14.

No Depoſed or Suſpended Miniſter is to intromet with the Benefice.

§ 20. By the 3*d.* Article of the 10*th.* Act of Aſſemb. 1694. If Probationers Malverſe in Doctrine or Converſation, they ſhall be Accountable to and Cenſurable by Preſbyteries. And if they refuſe Subjection or prove Contumacious to ſuch Cenſures, whether of Suſpending or Recalling

For what Probationers are to be Cenſured.

calling their Licence, Intimation thereof ſhall be made to the Church Judicatories where they Reſide or Haunt, that ſo none may imploy them to Preach.

When the Aſſembly only can Repone, and what Judicatories can Repone.

§ 21. By the Act of Aſſembly *Auguſt* 2*d.* 1641. Miniſters Depoſed for the publick Cauſe of Reformation, and Tranſgeſſing the Order of this Kirk, ſhall not be ſuddenly received again to the Miniſtry, till they firſt evidence their Repentance both before their Presbytery and Synod, and thereafter the ſamen be reported to the General Aſſembly. The Aſſembly *Auguſt* 12*th.* 1643. Conſidering that Sentences of Superior Judicatories ſhould ſtand effectual, till they be taken away by themſelves, therefore Synods are diſcharged to Repone Miniſters Depoſed by Aſſemblies, and Presbyteries from Reponing any Miniſter Depoſed by either. By Act of Aſſembly *February* 13. 1645. It is Ordained, that no Miniſter Depoſed ſhall be Reſtored again unto that place where formerly he ſerved, as being a thing prejudicial to the Congregation, and derogatory to the weight of that Sentence of Depoſition, and it being almoſt impoſſible that ever he can prove uſeful in that Pariſh again. See *the Form of Proceſs* on this Head, *Aſſemb.* 1707. By Act of Aſſembly *Auguſt* 12. 1648. It is Enacted, That no Miniſter Depoſed for being an Enemy to the Government of this Church, when it ſhall fall out, that he be put in a capacity of Re-admiſſion to the Miniſtry, ſhall enter into the Congregation of any other Miniſter, who alſo hath been Depoſed for that ſame Fault. By the 53. Article of *the French Church Diſcipline*, Miniſters who have been Depoſed for Crimes which deſerve ſignal Puniſhment, or that bear marks of Infamy, cannot be reſtored to their Office, what Acknowledgement ſoever they make. And as for other leſs Faults, after due Acknowledgment made, they may be Reſtored by the National Synod, to ſerve in another Church, and not otherways, which agrees with theſe Acts of our Aſſemblies juſt now cited.

He cannot be Reſtored to his former Pariſh, nor yet to that of another Depoſed for the ſame Fault.

Miniſters Depoſed for horrid Crimes not to be Reponed.

§ 22. By

§ 22. By the 13. Act of Assemb: 1690. All Sentences past against any Minister, *hinc inde*, by any Church Judicatory, upon the Account of the late Differences among Presbyterians from the Year 1650, till the Re-introduction of Prelacy, are declared to be of themselves Void and Null, to all Effects and Intents.

How a great many Ministers were Reponed against Sentences past during the late Divisions.

TITLE V.

Of Sentences and their Reviews, of Declinatures, References, and Appeals.

§ 1. Judicial Sentences are either Interloquitors, that is a Sentence intermediate between the Dependence and Termination of Processes; Or they are Definitive, that is, they Terminate Processes. And these are either Absolvitures, whereby the Defender is freed and Assoilzied from the Conclusion of the Libel or Process, or they are Condemnatory, whereby the Conclusion of the Process is found just and true against the Defender. Or they are mixed, whereby the Defender is Absolved from some part of the Conclusion of the Process, and is Condemned in other parts thereof.

Several kinds of Sentences.

§ 2. The Moderator of no Judicatory ought to give forth their Sentence, till the same be first put in Writing, and then he is to order the Clerk to read it in presence of all Parties. Thus no Judicatory can be in the least wronged by any Clerks Unfaithfulness or Omission.

Sentences must be written before they be pronounced.

§ 3. When it is doubtful what Sentence should be past, it is the Safest-side and the least Error, either to drop the Process for the time, or else to Absolve the Defender, conform to that Maxim in Law, *Satius est impunitum relinqui*

In doubtful Cases 'tis safest to Absolve.

facinus nocentis, quàm innocentem damnare, L. 5. D. *de pœn.* for in Abſolving the Guilty there is but an Omiſſion, whereas in Condemning the Innocent there is committing of Iniquity and Injuſtice.

Concluſion of the Cauſes. § 4. Before a Judicatory can think to paſs a Sentence, Parties being firſt fully heard muſt cloſe what they have to ſay, and after they have concluded their Defences and Anſwers, then the Judicatory begins to Adviſe what Sentence to pronounce; And ſeing the Purſuer ſpeaks firſt by his Libel, the Defender is allowed to be the laſt Speaker.

Some Sins not to be Tried publickly. § 5. When Faults are Singular and Monſtruous, it is the Laudable Practice of Judges, to order the Puniſhment and Trial of ſuch Crimes in private; I am ſure to acquaint the People of ſome Unnatural Sins, whereof they had never heard, were but a Scandalous and Pernicious Inſtruction. See the 51. *Art.* 1. *Cap.* and 10. and 11. *Art.* of the 5. *Cap.* of the *French* Church Diſcipline.

Nullity of Sentences. § 6. Sentences are in themſelves Null, when pronounced againſt the General Acts of the Church, or by an incompetent Judge, ſuch as the Sentences of Kirk-Seſſions againſt Miniſters, or even by Presbyteries and Synods, when the Proceſs is carried and admitted before their Superiour Judicatories.

The Nature, Uſe and End of Reviews, and who can Review. § 7. When the Party neglects to uſe the ordinary Remedy of Appeal, he is allowed (where the Sentence is palpably gravaminous) to purſue a Review thereof before a Superiour Judicatory. They are like Reductions, and ought to be ſo Libelled, calling the Parties and Judge to produce what is craved, to be reviewed. They are not much in uſe with us, and if they were, ſome Self-will'd and Litigious perſons would take too much Encouragement from it. Aſſemblies, from which there lies no Appeal, may Review or Recal their own Sentences, on ſome new or extraordinary diſcovery. But Inferiour Judicatories from which Parties may Appeal, are not to Determine

termine, but to refer the desired Review or Reduction to their Superiour Judicatory. If a Party shall omit to propone a competent and proper Defence, with a fraudulent and vexatious Intention to protract and resume Debates; in that case he ought not to he heard in his making thereof out of due Time and Order. But to hear emergent and new discovered Defences since the conclusion of the Cause, is but just.

§ 8. In the latter part of the 23*d* Act *Parl.* 1693. It is Statute, That the Lords of Their Majesties Privy Council, and all other Magistrates, Judges and Officers of Justice, give all due Assistance, for making the Sentences and Censures of the Church, and Judicatories thereof to be obeyed, or otherways effectual as accords.

The Magistrate is to Interpose his Authority for getting Obedience to Church Censures.

§ 9. Declinatures are *ante latam sententiam definitivam*: But Appeals are made from and after that Sentence. These Declinatures are of two sorts, the first Unwarrantable, when a Judicatory is Declined, as having no Authority, as if a Minister should Decline his own Presbytery, or the other Superiour Judicatories of the Church to be his Lawful Judges, which is a higher Degree of Contumacy, than that which follows upon Non-compearance, and may be warrantably censured with Deposition by the 5*th* Act of Parliament 1690. There is a warrantable Declinature, when a Judicatory is Declined as having committed Injustice in some Interlocutor-Sentence. There is likewise a warrantable Declinature, which may be made against particular Members, who are related to the Party by Consanguinity or Affinity, nearer than a Cousin-german, or who have behaved themselves as Parties in the Cause. It is just now said, that Appeals are properly made from Definitive-Sentences, but they are likeways made from Interlocutory-Sentences, when they contain such Damage to the Party, whereof no Reparation can be expected, from the Definitive Sentence that is to ensue. Thus *Paul*'s Appeal was

Difference between References and Appeals: When warrantably made, and when not.

Juſt, *Acts* 25. 9. for albeit his Accuſers could not prove their Libel againſt him, yet his Judge did not abſolve him, but partially and unjuſtly Remitted him to the Judgment of his falſe and malicious Accuſers.

What an Appeal is; Its End.

§ 10. *Appellatio* is by Lawyers ſaid to be *Iniquitatis ſententiæ querela, a minore Judice ad ſuperiorem provocans*; The Deſign of Appeals is to Redreſs wrongs done by the Iniquity, Unskilfulneſs, or Precipitancy of Judges.

The Effect of an Appeal, and how it ſiſts Execution.

§ 11. As to the Effect of Appeals, *non ſortiuntur Effectum ſuſpenſivum ſed devolutivum tantum*, and conſequently reſolve only in the Nature of Proteſts for Remeed of Law againſt a Sentence pronounced by the Lords of Seſſion, and not in the Nature of Suſpenſions. By the laſt Article *Cap.* 5. *Act* 11. *Aſſem.* 1707. an Appeal being made by Parties, ſhould ſiſt the Execution of the Sentence appealed from, only while the Appeal is duely and diligently proſecute, and may thereby be determined, otherwiſe not; unleſs the Judicatory appealed to, receive the Appeal, and take the Affair before them: And in that Caſe the Judicatory appealed from is to Siſt till the Appeal be diſcuſſed.

The Manner of making Appeals, and to whom made.

§ 12. By the Act of Aſſembly *Auguſt* 30. 1639. Appellations are diſcharged to be made by leaping over either Presbytery or Synod, except it be after the Synod is paſt, and immediately before or in the time of the ſitting of the General Aſſembly. The Aſſembly 1648. *Seſſ.* 30. Orders thus, That where the Appeal after Sentence is not ready to be given in, the Party ſhall proteſt for Liberty to Appeal, and accordingly, within ten Days, give in his written Appeal to the Judicatory or Moderator thereof, otherwiſe it falls; Which Order and Method is further cleared by the 8*th* Act of Aſſembly 1694. whereby it is appointed, That Verbal Appellants give in their ſubſcribed Appeals, within ten Days to the Clerk of the Judicatory appealed from, (notwithſtanding the Judicatory may be up before the time) and alſo Intimate the ſame to the Moderator, by leaving

leaving with him an Authentick Copy thereof, with the Reaſons of the ſame, to be Regiſtrated by the Clerk, and Summonds direct thereupon againſt Parties Defenders, and Extracts thereof, with the Citation foreſaid, are to be produced by the Appellants at the diſcuſſing thereof, Declaring that any Appeals or Inſiſtings thereupon, otherways made, ſhall be rejected.

When an Appeal is to be judged Deſerted.

§ 13. When the Judicatory *ad quem* meets, the Party Appealed, and oftentimes the Judge *a quo*, craves that the Appealant may be called, and if he appear not, the Appeal is holden as deſerted; In which Caſe *firmatur ſententia.* If the Appellant fail, then to Inſiſt, it *ipſo facto* falls, becomes Void, and the Sentence of the Judicatory appealed from is to be put in Execution. See *The Form of Proceſs* on this Head, Enacted 1707. Unleſs the Appellants ſend full Inſtructions and Documents for the Neceſſity of their Abſence.. See *Cap. 9 Art. 9. French Church Diſcipline.*

How Parties are ſiſted by Bills and References.

§ 14. By the Act of Aſſembly *Auguſt* 3. 1643. It is appointed that all Bills whatſoever of particular Concernment, whereunto all Parties having Intereſt are not cited, ſhould be Rejected. As alſo, that they be firſt preſented to the Inferiour Judicatories of the Kirk, who may competently conſider of them, and from them, be orderly *& gradatim* brought to the Aſſembly, and References are to be made by the Inferiour to the Immediate Superiour Judicatories in the ſame manner. Likewiſe, Upon a Reference made and intimate, all Parties preſent are thereby cited, *apud acta*, to the Judicatory Referred unto: But if abſent, the Clerk muſt be ordered to direct Summonds againſt them, which if omitted, the Reference cannot be Received.

When the Benè or Malè Appellatum is to be Diſcuſſed.

§ 15. When an Appeal is brought from a Kirk-Seſſion to the Presbytery, they are to conſider, whether the Cauſe is of that Nature, as it behoved at length to come to the Presbytery, by the Courſe of Diſcipline, before the final Determination thereof: As, if it be in a Proceſs of alledged Adultery or ſuch like; In which Caſe, they may, to ſave them-

themſelves time, fall upon conſideration of the Affair, without inſiſting upon the *Bene* or *Male Appellatum*, even tho' it ſeem to be prepoſterouſly appealed. But if the the Cauſe be ſuch, as the Kirk-Seſſion are the competent and proper Judges of, to its ultimate Deciſion, and if there hath no Cauſe been given by the Seſſion, through tranſgreſſing the Rules of an orderly Proceſs, or by the Incompetency of the Cenſure, the Presbytery is not to ſuſtain the Appeal; And if they do not ſuſtain it, but find the Appellants to have been Malicious, Litigious, or Precipitant, then they are to Inflict ſome Cenſure, ſuch as Reproof before the Presbytery, or appoint them to acknowledge their Precipitancy before their own Seſſion, and that beſide Remitting the Proceſs to them. If the Appeal be ſuſtained, and yet upon proceeding in the Cauſe, the Presbytery find the Appellant Cenſurable, they are to order him to be cenſured accordingly: But if they find, that the Kirk-Seſſion hath unwarrantably proceeded, either to the Contributing to the raiſing of a Scandal, or Inflicting a Cenſure without a ſufficient Cauſe, they are then not only to abſolve the Appellant, but to take proper Ways for vindicating his Innocence; Yet ſo as not to weaken the Kirk-Seſſions Authority, for which end, they may give that Seſſion ſuteable Inſtructions and Rules to walk by, or private Admonition, or to call for a Viſitation of their Seſſion Regiſter. See that forecited *Form of Proceſs*, Aſſembly 1707.

When the Appeal is not to be ſuſtained.

When the Appeal is to be ſuſtained.

TITLE

TITLE VI.

Of the Order of Proceeding to Excommunication.

§ 1. IF a guilty Perſon continue in that Condition mentioned *Tit.* 1. *H. L.* or ly under the Cenſure of the *Leſſer* Excommunication for a conſiderable time, after Intimation thereof hath been made, both in the Congregation where it was Inflicted, and alſo in that to which he belongeth; And yet be found frequently Relapſing in theſe Vices, he was cenſured for, it may be conſtructed ſuch a Degree of Contumacy, and ſo aggravate the Crime as to found a Proceſs for the Cenſure of the *Higher* Excommunication, which is to be Inflicted or not, as may moſt tend to the Reclaiming of the guilty Perſon, and Edification of the Church. Where there is no obdurate Contumacy, the *Leſſer* Excommunication needs only have Place. Again, where no Scandalous Practice hath been proven, only there is a ſimple Contumacy following by not appearing; In that Caſe, the *Leſſer* Excommunication is length enough. But if the Scandal be of an hainous Nature, and that it is Spreading and Infectious, as in Hereſies or Schiſm in the Church; In which Caſes, Contumacy is to be proceeded againſt.

When to proceed from the Leſſer to the Higher Excommunication, and Grounds for both.

§ 2. Yet every Error or Difference in Judgment about Points wherein Learned and Godly Men may differ, and which ſubverts not the Faith, nor is deſtructive to Godlineſs, or when Perſons out of Conſcience, do not come up to the Obſervation of all theſe Rules, which are or ſhall be eſtabliſhed by Authority for Regulating the outward Worſhip

Every Error or Difference in Judgment not ſufficient Ground for Excommunication.

Worſhip of God, and Government of His Church, the Cenſure of Excommunication ſhould not be Inflicted for ſuch Cauſes. See *Durh.* on Scandal. The Letter from the Aſſembly of Divines at *Weſtminſter*, with the Anſwer of our General Aſſembly 1645.

How the Presbytery proceeds with Perſons preſent or abſent in order to this Cenſure.

§ 3. The Kirk-Seſſion having brought the Proceſs to the *Leſſer* Excommunication, before they proceed further, they are by a Reference to lay their whole Proceeding in Writ before the Presbytery, who finding them to have orderly proceeded, and that the *Leſſer* Excommunication is not ſufficient, they are to cauſe cite the Scandalous Perſon. If he appear, and deny the Scandal alledged and libelled, then they are to lead Probation as in other Caſes. If he appear not, then the Citation is to be renewed till he hath got three.

After three ordinar Citations, three publick Admonitions.

§ 4. If he contemn theſe three Citations, then he is to be admoniſhed out of the Pulpit, to appear and ſubmitt three ſeveral Sabbaths, and a Presbytery Diet ſhould Interveen betwixt every one of theſe Admonitions. By theſe Admonitions Intimation is to be made, that the Presbytery will proceed to Inquire into the Guilt, although the Delinquent be abſent, and threatning him with the higheſt Cenſure of the Church, if he continue Impenitent; And therefore the Miniſter is gravely to admoniſh the Party preſent or abſent to Repent and Submitt himſelf to the Diſcipline of the Church.

After three Admonitions, follow three publick Prayers.

§ 5. If after all, the Perſon continue Impenitent or Contumacious, the Presbytery appoints the Miniſter to Pray for him publickly in the Congregation, and he is to Exhort them to joyn with him in Prayer, That God would deal with the Soul of the Impenitent, and convince him of the Evil of his Ways. Which Prayers of the Church, are to be put up three ſeveral Sabbath Days, a Presbytery Interveening betwixt each Prayer.

Edict for Excommunication.

§ 6. The Scandalous Perſon ſtill continuing Impenitent, and making

making no Application or Submiſſion, the Presbytery is then to appoint the Miniſter to Intimate their Reſolution to proceed upon ſuch a Sabbath as they ſhall name for pronouncing that dreadful Sentence, unleſs either the Party or ſome for him, ſignify ſome Relevant Ground to ſtop the Procedure, that ſo upon the Congregations tacite Conſent and Acquieſcence, the Sentence may have its due Weight and intended Effect.

The Reaſon of this ſlow procedure.

§ 7. All theſe ſlow and ſeveral Steps of the Churches Proceedings to this high Cenſure, do ſhew their Tenderneſs towards their Lapſed Brother, their Earneſtneſs to have him Reclaimed, and alſo to create a greater Regard and Terrour of that dreadful Cenſure, both in the Party and all the People. Let not thoſe who deſerve it, or upon whom it hath been orderly and juſtly Inflicted, mock and ſay, *parturiunt montes*, &c. For whatſoever the Church ſhall ſo bind on Earth, our Lord hath ſaid it ſhall be bound in Heaven, *Matth.* 18. 18. And this Cenſure is like a Seal to all the Threatnings of God in His Word, which ſhall verily be execute againſt Impenitent Sinners.

The Miniſter's Behaviour before he pronounce the Sentence.

§ 8. The day being come, the Miniſter is to preach a Sermon ſuited to that ſolemn Occaſion, concerning the Nature, Uſe, and Ends of Church Cenſures; Then, after the ordinary Prayers and Praiſes of the Congregation are performed, the Miniſter is to narrate all the Steps of the Proceſs, ſhew the obſtinate Impenitency of the Scandalous Perſon, and that now there remained only that Mean of cutting him off from the Society of the Faithful. Then he is to deſire the Congregation to joyn with him in Prayer, That God would grant Repentance to the obſtinate Perſon, would graciouſly bleſs His own Ordinance, to be a Mean for Reclaiming him, and that others may fear.

The Form of the Sentence of Excommunication.

§ 9. Then immediately after Prayer that terrible Sentence is to be pronounced, in theſe or the like Words, ſpeaking to him, in the *Second Perſon*, if preſent, and of him, in the *Third*

Third Perſon, if abſent. Whereas thou *N.* haſt been by ſufficient Proof convicted of (*here mention the Sin*) and after due Admonition and Prayer, remaineſt Obſtinate, without any Evidence or Sign of true Repentance. Therefore, in the Name of the LORD JESUS CHRIST, and before this Congregation, I pronounce and declare thee *N.* Excommunicated, ſhut out from the Communion of the Faithful, debarrs thee from their Privileges, and delivers thee unto Sathan for the deſtruction of thy Fleſh, that thy Spirit may be ſaved in the Day of the LORD JESUS.

What is meant by delivering to Sathan.

§ 10. Why the Apoſtle 1 *Cor.* 5. 5. expreſſes Excommunication by delivering to Sathan may be for this, among other Reaſons, That Sathan is called the God of this World, as *World* is taken in Oppoſition to the Church of GOD, ſo that delivering to him Implies no more than that *Matth.* 18. 17. If he neglect to hear the Church, let him be to thee as an Heathen Man and Publican, thereby letting us know how dreadful a thing it is to be ſhut out from the ordinary Means of Grace and Salvation, and expoſed to the Temptations of our grand Adverſary the Devil.

When pronouncing the Sentence may be ſtopped.

§ 11. If after Prayer, or before pronouncing of that Sentence, the Scandalous Perſon make any publick Signification of his Penitency, and of his deſire to have the Cenſure ſtopt, the Miniſter may upon any apparent Serioufneſs in him, delay pronouncing him Excommunicated, upon his publick Engagement and Promiſe to appear before the Presbytery at their next Meeting, of which the Miniſter is to make Report, and the Presbytery is thereupon to deal with the Scandalous Perſon as they ſhall ſee cauſe.

The Effects of this Sentence.

§ 12. After the pronouncing of this Sentence, the Miniſter is to warn the People of the Effects thereof, ſuch as, That they hold that Perſon to be caſt out of the Communion of the Church, and therefore they are to ſhun all unneceſſary Converſe with him: Nevertheleſs Excommuni-

cation

cation dissolveth not the Bonds of Civil or Natural Relations. By the Act of Assembly 1596. Revived Assembly 1638. *Sess.* 23. *Art.* 16. such are appointed to be Excommunicated as will not forbear the Company of Excommunicated Persons. By the 10*th* of these *Canons* called *Apostolical*, *Si quis etiam domi cum excommunicato simul oraverit, is pariter excommunicetur.* By Assembly 1643. *Sess. ult.* and Assembly 1648. *Sess.* 38. *Art.* 13. If a Minister haunt the Company of Excommunicated Persons, he shall be Suspended for the first Fault, and Deprived for the second, unless he have Licence from the Presbytery, or else the Excommunicated Person be *in extremis*. No civil Penalty, such as Escheat of Moveables or Caption, doth now follow upon this Sentence, so that the Liberty and Estates of Church Members are not endangered by it, nor do they depend upon Church-men. But upon a Presbyteries Representation to the Privy Council, against persons that are Contumacious, such may not expect to enjoy their Places, or be Intrusted with any, as the last Act made against Profaneness in King *William*'s Reign doth Insinuate. By *Jam.* 6. *Parl.* 11. *Cap.* 27. Excommunicate Persons are to be charged by the Minister to depart from the Church in time of Ministration of Sacraments and Prayer, and not to disobey, under the Penalties therein mentioned.

Conclusion by Prayer, Praise and pronouncing the Blessing.

§ 13. The Minister is to conclude this Censure with Prayer to this Purpose, That GOD who hath appointed this terrible Sentence for removing of Offences, and reducing of obstinate Sinners, would ratify in Heaven, what in His Name, and by His Warrant hath now been done on Earth, and that the shutting him out of the Church may fill him with Fear and Shame, break his obstinate Heart, and be a Mean to destroy the Flesh, and recover from the power of the Devil, that his Spirit may yet be saved, and also that others may be stricken with Fear, and not dare to sin so presumptuously, or contemn the Authority

and Voice of His Church. See *Knox's Forms* prefixed to the old Pſalms. Then the Congregation is to be diſmiſſed with the Bleſſing, after ſinging the laſt part of the 101 *Pſalm.*

The Difference betwixt the Greater and Leſſer Excommunication.

§ 14. The 4 *Art. Cap.* 30 of our Confeſſion of Faith ſaith, That for the better attaining the Endsof Church Cenſures, the Officers of the Church are to proceed by Admonition and Suſpenſion from the Sacrament of the Lord'sSupper for a time, and by Excommunication from the Church. The Difference then betwixt theſe two Cenſures is: Suſpenſion from theLord's Supper,Imports that the perſon ſo Cenſured is in Imminent Danger of beingExcommunicated and cut off from the Church, but before that heavy and finiſhing Stroke be Inflicted, there are further Means to be uſed, ſuch as Prayers and Admonitions, in order to his Reclaiming, 2 *Theſſ.* 3. 6, 14, 15. *Now we command you Brethren, in the name of our Lord Jeſus Chriſt, that ye withdraw your ſelves from every Brother that walketh diſorderlie: And if any Man obey not our word by this Epiſtle, note that Man, and have no companie with him, that he may be aſhamed, yet count him not as an Enemy,but admoniſh him as a Brother.* Whereas when a perſon is cut off by that high Cenſure, he is to be looked on as a Heathen Man, *Matth.* 18. 17. Upon which the Church ceaſeth to be his Reprover, they give him over for dead or deſperate, and will adminiſter no more of the Medicine of Church Diſcipline unto him, 1 *Cor.* 12. 13. *For what hath the Church to do to judge them that are without? do not they judge them that are within? but them that are without, God judgeth.*

Summar Excommunication, what, and when to be Inflicted.

§ 15. Perſons guilty of Relapſe in Adultery, or who are often guilty of other groſs Scandals, are to be more ſummarily Excommunicate than in ordinary Proceſſes, both for the Heinouſneſs of the Sin, and for Terrour to others. See *Seſſ.* 38. *Aſſemb.* 1648. There is no Excommunication abſolutely Summar, that is, without previous Citati-

ons,

ons, Admonitions and Prayers, but it is Comparatively Summar, becauſe they are not firſt ſuſpended, as in ordinary Church Procedures againſt ſcandalous perſons. I am ſure, where there is no obdurate Contumacy, but on the contrair, Edifying Signs of true Repentence, to ſuch *ſinus Eccleſiæ ſemper patet*: For the Repentance of the greateſt Sinners is more Edifying and Grateful than their Excommunication, And if the Holy One of *Iſrael*, who is Abſolute and Sovereign in beſtowing of His Mercy & Grace to whom and when He will, ſhall think fit, by giving unfained Repentance to that nottour atrocious Sinner, to ſignify His forgiving of him, and receiving him into His Favour; How dare any Church upon Earth preſume to deliver ſuch a perſon unto Sathan?

Intimation of the Sentence of Excommunication and Abſolution.

§ 16. In caſe the Excommunicate Perſon continue Obſtinate, after the Sentence of the Presbytery is Intimated in all the Kirks within their Bounds, they are to give an Account thereof to the Synod, who are to appoint Intimation thereof to be made in all the Kirks of their Bounds; and if need be, the Synod is to bring the Caſe to the Aſſembly, that the Sentence may be Intimate through all the Churches of the Kingdom. *Aſſemb.* 1704. *Seſſ.* 10. *Aſſemb.* 1648. *Auguſt* 10. Only let this be remembred, that if he come to be abſolved, Juſtice be done him, in cauſing the Abſolution be Intimate, where-ever the Excommunication had been, ſo the Plaiſter will be proportioned to the Sore.

Interdictum Local and Particular.

§ 17. There is in the Canon Law a Church Cenſure which they call *Interdictum*, by which they Excommunicate whole Kingdoms and Provinces for the Fault of ſome, whereby they make the Innocent ſuffer with the Guilty, through the forbidding the publick Exerciſe of God's Worſhip in that Kingdom, Place, or Province. They have a particular *Interdictum* by which they Excommunicate a number of Perſons ſpecially deſigned. By the firſt of theſe the

the Inhabitants are only affected and reached with its Cenſure during their Abode or Reſidence in the Place Interdicted. But the particular *Interdict* doth reach and follow the particular Perſons thereby Cenſured, where-ever they Sojourn.

Anathematization, Excommunication and Accurſing are Synonymous.

§ 18. *Calderwood* in his Hiſtory *pag.* 205. tells us, That *Anathematization* is a Cenſure of an higher Degree than *Excommunication*, but the Reformed Churches generally eſteem Excommunication to be *Severiſſima Diſciplina, & ultimum fulmen Eccleſiæ*, and in the 16 *Sect.* 1 *Art.* of the Directory for Church Government, as it was printed *Anno* 1647. to be Examined by the Aſſembly, it is ſaid, Excommunication is a ſhutting out of a Perſon from the Communion of the Church, and it is the greateſt and laſt Cenſure. And, pray, what can a Church do more? Or, what have they to do more with a perſon ſhut out of their Communion? The Anathematization among the Canoniſts hath no other Effects, but is the ſame upon the Matter with their greater Excommunication; Only, when the ſame is Inflicted with a number of more Solemnities and Formalities, becauſe of that Parade it is then called Anathematization. And we find by *KNOX*'s Forms, that he uſeth the Words *Excommunicated* and *Accurſed*, as Synonymous or Equipollent: See *the Form of Proceſs* both on this and the Subſequent Title *Aſſemb.* 1707.

TITLE

TITLE VII.

Of the Order of proceeding to Abſolution.

§ 1. BY the Manuſcript Acts of Aſſembly at *Edinburgh* *March* 1569, Perſons Excommnicated for their Offences, in order to their Abſolution, ſhall ſtand Bare-headed at the Kirk-door till Prayers and Singing be ended, and then enter the Kirk, and ſit at the publick place of Repentance Bare-headed all the time of the Sermon, and again depart before the laſt Prayer, which is agreeable to *KNOX*'s *Forms*, concluded *Anno* 1567. and ordered to be printed by Aſſembly 1571. and is not diſagreeable to the Primitive Practice of the Church. But now, if after Excommunication the Signs of Repentance appear in the Perſon Excommunicated, ſuch as Godly Sorrow for Sin, as having thereby Incurred God's heavy Diſpleaſure, occaſioned Grief to his Brethren, and juſtly provoked them to caſt him out of their Communion, together with a full Purpoſe of Heart to turn from his Sin unto God, with a humble Deſire of recovering Peace with God and His People. All which the Presbytery being ſatisfyed with, they give Warrant for his Abſolution: But in order thereto, he is to be brought before the Congregation, and there alſo make free Confeſſion and expreſs Sorrow for his Sin, call upon God for Mercy in Chriſt, ſeek to be reſtored to the Communion of the Church, and he muſt promiſe, through the Lord's Strength, new Obedience and more holy and circumſpect Walking: Which Ap-

The old and preſent Method of proceeding to Abſolution.

Appearance before the Congregation, ſhall be as often as Church Judicatories ſhall find may be for Edification and Tryal of the profeſſing Penitent's Sincerity.

Abſolution in Extremis.

§ 2. A Miniſter may warrantably without Licence from the Presbytery, haunt the Company of Excommunicate Perſons *in extremis*, as is ſaid, *Tit. Præc.* And if he ſhall then find in the dying Perſon true Signs of Repentance, what is there to forbid his adminiſtrating the comfortable Sentence of Abſolution to him, ſeing it is due to the Signs of his Repentance, and his dying Condition cannot admitt of longer delay. But that Miniſters might have better Warrant, & the Fears of dying Penitents be more eaſily removed, I wiſh there were ſome Church Act expreſly Authorizing Miniſters to abſolve Perſons in ſuch Circumſtances.

Edict of Abſolution.

§ 3. In the preceeding *Title* there is an Edict of Excommunication mentioned, ſo in like manner, and on the ſame Ground, there ſhould be publiſhed an Edict of Abſolution, at leaſt a Sabbath before the ſame, that ſo the Penitent may be reſtored to the Apparent and Tacite Satisfaction of that Congregation who had ſo conſented to his Seclusion.

The Miniſter's Behaviour and Prayer before Abſolution.

§ 4. The Day being come, the Miniſter is to preach a Sermon ſuited to that Occaſion; Then, after the ordinary Prayers and Praiſes of the Congregation are ended, he is to call upon the profeſſed Penitent, and make him Declare, Promiſe, and Call upon GOD as above: Thereafter he is to deſire the Congregation to joyn with him in Prayer to this purpoſe, That the Lord Jeſus Chriſt who hath pronounced, that whoſoever by His Miniſters is bound on Earth, ſhall be bound in Heaven; And alſo, that whoſoever is looſed by the ſame, ſhall be looſed and abſolved with Him in Heaven, would mercifully accept his Creature this profeſſing Penitent *N.* whom Sathan of a long time hath held in bondage, ſo that he not only drew him to Iniquity, but

but alſo ſo hardened his Heart, that he deſpiſed all Admonitions, for the which his Sin and Contempt, they were compelled to Excommunicate him from the Society of the Faithful. But now ſeing the Holy Spirit hath ſo far prevailed, that he profeſſeth Repentance for his Sin, that it may pleaſe God by His Spirit and Grace, to make him a ſincere and unfeigned Penitent: And for the Obedience of our Lord Jeſus Chriſt unto Death, ſo to accept of this poor returning Sinner, that his former diſobedience be never laid to his charge, and that he may increaſe in all Godlineſs, ſo that Sathan in the end may be trodden under foot by the Power of our Lord Jeſus, and GOD may be Glorified, the Church Edifyed, and the Penitent ſaved in the Day of the LORD.

Sentence of Abſolution & Exhortation to the Abſolvi.

§ 5. After Prayer, the Sentence of Abſolution is to be pronounced in theſe or the like Words. Whereas thou *N.* haſt been ſhut out, for thy Sin, from the Congregation of the Faithful, and haſt now manifeſted thy Repentance, wherein the Church reſteth ſatisfyed; In the Name of the Lord Jeſus Chriſt, before this Congregation, I pronounce and declare thee abſolved from the Sentence of Excommunication formerly denounced againſt thee, and do receive thee into the Communion of the Church, and the free Uſe of all the Ordinances of Chriſt, that thou mayeſt be Partaker of all His Benefits to thy Eternal Salvation. After this is pronounced, the Miniſter ſpeaketh to him as a Brother, Exhorting him to Watch and Pray, or Comforting him, if there be need, the Elders Imbrace him, and the whole Congregation holdeth Communion with him as one of their own.

How the Excommunicated are Prayed for before Abſolution.

§ 6. When the Preſbytery hath given Warrant for abſolving the Excommunicate Perſon, he is thereupon materially abſolved, and therefore may be admitted to Church Worſhip, before he be actually and formally pronounced and declared ſuch. The Church may Pray for Excommu-

nicate Persons, unless they had certain Knowledge, I mean very well Grounded, that any of them had committed the Unpardonable Sin, and that unto Death, 1 *John* 5. 16. *Matth.* 12. 31, 32. And when we do Pray for these Excommunicated, whom we hope not to be so guilty, yet we do not Pray for them as Christians, or of our Communion, but as if they were Heathens, for their Conversion and Repentance.

Conclusion of the Absolution.

§ 7. The Minister is to conclude the Absolution with Prayer, thanking GOD who delighteth not in the Death of a Sinner, but rather that he should Repent and Live, and Magnifying the Mercy of GOD through Jesus Christ, in pardoning and receiving into His Favour the most grievous Offenders, whenever by his Grace they unfeignedly Repent and forsake their Sins. Thereafter the Congregation is Dismissed with the Blessing, after singing a part of some Penitential Psalm.

MVSEVM BRITAN NICVM

FINIS.

A N

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